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## Minding the Gap: Improving Parental Involvement to Bridge Education Gaps Between American Indian and Non-Indian Students

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MINDING THE GAP:  
IMPROVING PARENTAL INVOLVEMENT TO BRIDGE  
EDUCATION GAPS BETWEEN AMERICAN INDIAN AND NON-INDIAN  
STUDENTS

I. INTRODUCTION

The Navajo Tribe dislikes talking about the dead. The tribe refers to such conversation as “talking in darkness.” Michalyn Steele, a former attorney for the Department of Interior (DOI), learned this when she sat down with Navajo elders to discuss a spate of teenage American Indian suicides within the nation.<sup>1</sup> The youth suicide rate among American Indians stands at about twice the rate of non-reservation victims.<sup>2</sup> The Department of Interior had organized listening sessions on reservations around the country to invite the communities to talk about the issue and try and find a solution, among which was the Navajo Nation.<sup>3</sup> “It was the community talking to each other,” Steele said, “and they were concerned—’We’re talking in darkness, but we need to have this conversation.’”<sup>4</sup>

The community spoke about the teenage suicide and the conversation centered around one prime cause:

They talked about the boarding school era and how generations of family bonds had been disrupted by these policies. Children had been taken from their homes and returned as strangers . . . and ill

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<sup>1</sup> Interview with Michalyn Steele, Adjunct Professor, J. Reuben Clark Law School, in Provo, Utah (Sep. 29, 2016). Professor Steele previously worked as Counselor to the Department of Interior’s Assistant Secretary for Indian Affairs (starting in 2009).

<sup>2</sup> *Id.* See also Laura Santhanam & Megan Crigger, *Suicide among Young American Indians Nearly Double National Rate*, PBS NEWS HOUR (Sep. 30, 2015), <https://www.pbs.org/newshour/nation/suicide-rate-among-young-american-indians-nearly-double-national-average> (last accessed March 12, 2018).

<sup>3</sup> Interview with Michalyn Steele.

<sup>4</sup> *Id.*

equipped themselves to become parents . . . and having suffered . . . tremendous trauma . . . that was being self-medicated with alcohol. . . . [This was] fostering a lot of depression and despair in families and in communities. And as those generations aged and had families of their own, there were disruptions to the primary familial bond and the ability to parent. . . .<sup>5</sup>

Decades of forced removal from their families to receive a Western education had decimated the family culture within the Navajo nation, resulting in poverty, a dearth of family illiteracy, substance abuse, and death. Steele observed, “What the Navajo were telling me as a representative of the DOI was, ‘This is the fruit of the boarding school . . . we’re still, generations later, paying the price—by our children harming themselves.’”<sup>6</sup>

The instigation of the boarding school era and its effects falls into the greater history of federal-tribal relations in the United States. Relationships between Indian tribes and European settlers have spawned tension and reinterpretation since the United States’ beginnings. The conflict between tribes trying to keep their ancestral lands and white settlers expanding ever westward was old news by the time Supreme Court Justice John Marshall issued three rulings that became seminal authority for future federal and state Indian law.<sup>7</sup> These rulings asserted that: (1) the federal government now exercised the conqueror’s power over the tribes, and enjoined private citizens from developing relations with the tribes that would conflict with that power;<sup>8</sup> (2) the federal government held plenary power over the tribes, who could exert only quasi-sovereign powers as domestic-dependent nations;<sup>9</sup> (3)

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See CASES AND MATERIALS ON FEDERAL INDIAN LAW 43–94 (David H. Getches, Charles F. Wilkinson, Robert A. Williams, Jr. & Matthew L.M. Fletcher, eds., Thomson Reuters 2011).

<sup>8</sup> *Johnson v. M’Intosh*, 21 U.S. 543 (1823).

<sup>9</sup> *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831).

federal law, not state law, would control in Indian country.<sup>10</sup> In effect, these rulings established the Federal Government's "unique and continuing relationship with and responsibility to the Indian people"<sup>11</sup>—a relationship and responsibility the government largely failed to fulfill in bettering the tribes' situation.

Under these and later cases, a set of rules involving the federal-tribal relationship solidified:

First, Congress has plenary power in the exercise of its Indian affairs duties. Second, the United States owes a duty of protection to Indian nations and tribal members akin to a common law trust. Third, Indian nations retain inherent sovereign powers, subject to divestiture only by agreement or by Congress. Fourth, state law does not apply in Indian country absent authorization by Congress. Finally, Congress must clearly state its intention to divest tribal sovereignty.<sup>12</sup>

This policy put the tribes at horrific disadvantage during the 19th and 20th centuries. The federal government, pressured by White expansion and Manifest Destiny rhetoric, subjected the tribes to a swirl of treaties—negotiated, remade, and renegotiated in such a way that the tribes found themselves conclusively cloistered on miniscule plots of land that often would not support agricultural or even foraging lifestyles.<sup>13</sup> During the Removal Era<sup>14</sup> the government forced the tribes west of the Mississippi, thinking White expansion would stop there. When it didn't, the government launched the Assimilation Era in the later half of the 19th century;

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<sup>10</sup> *Worcester v. Georgia*, 31 U.S. 515 (1832).

<sup>11</sup> *Id.* at 2204.

<sup>12</sup> Matthew L.M. Fletcher, *A Short History of Indian Law in the Supreme Court*, 40 HUMAN RIGHTS MAG. (2014), [http://www.americanbar.org/publications/human\\_rights\\_magazine\\_home/2014\\_vol\\_40/vol--40--no--1--tribal-sovereignty/short\\_history\\_of\\_indian\\_law.html](http://www.americanbar.org/publications/human_rights_magazine_home/2014_vol_40/vol--40--no--1--tribal-sovereignty/short_history_of_indian_law.html) (last visited April 7, 2017).

<sup>13</sup> See CASES AND MATERIALS, *supra* note 7, at 140–41.

<sup>14</sup> See *id.* at 94–128.

under Assimilation and Allotment policy<sup>15</sup> the government sought to break up the tribal identity by incentivizing, or forcing, Indians to receive Western education, to own land in private Western fashion, and to leave all tribal identity behind. The government also set out a disastrous education campaign for Indian children.<sup>16</sup>

The tribes would not be dissuaded from their tribal values. This led to an onslaught of waffling federal policy to fix “the Indian problem.” The early 20th century saw the instigation of the Indian Reorganization Era,<sup>17</sup> under which the government issued legislation to help the tribes create their own constitutions, often patterned after the U.S. governmental structure rather than traditional tribal structure. Then, during the Termination Era (1945-61),<sup>18</sup> Congress swung its pendulum the other way, withdrawing recognition of tribes as well as federal control over and responsibility for them. The tribes, however, left to themselves after centuries of stifling federal control, had few resources and little know-how to survive in a White Western economic society.<sup>19</sup> They clamored for federal recognition and assistance again, and the Termination Act was repealed.<sup>20</sup>

Finally, in 1974, after centuries of forced control, failed assimilation, and contested termination of the tribes, Congress began the Self-Determination Era.<sup>21</sup> The federal government recognized tribal governments and began to move control of its own federal assistance programs to the tribal governments, while still holding out financial assistance to the tribes. Under this policy, the federal government recognized a responsibility to help the tribes develop into economic and political forces of their own, with tribal identities intact.<sup>22</sup>

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<sup>15</sup> See *id.* at 141–186.

<sup>16</sup> See *supra* PART II.

<sup>17</sup> See CASES AND MATERIALS, *supra* note 7, at 187–200

<sup>18</sup> See *id.* at 200–216.

<sup>19</sup> See CASES AND MATERIALS, *supra* note 7, at 214–15 (discussing the plight of the Menominee Tribe under Termination).

<sup>20</sup> See *id.* at 216.

<sup>21</sup> See *id.* at 216–243.

<sup>22</sup> See *id.*

In particular, Congress passed the Indian Self-Determination and Education Assistance Act as another corrective course in American Indian policy.<sup>23</sup> Here Congress acknowledged among other things, the importance of education reform, particularly greater parental involvement, in American Indian government policy:

- (1) True self-determination in any society of people is dependent upon an educational process which will insure the development of qualified people to fulfill meaningful leadership roles;
- (2) the Federal responsibility for and assistance to education of Indian children has not effected the desired level of educational achievement or created the diverse opportunities and personal satisfaction which education can and should provide; and
- (3) parental and community control of the educational process is of crucial importance to the Indian people.<sup>24</sup>

Congress further voiced its obligation to assist tribal self-determination by “assuring maximum Indian participation in the direction of educational” services, acknowledging its goal “to provide the quantity and quality of educational services and opportunities” that would enable “Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being.”<sup>25</sup>

The federal government claimed in the Act that education was central to tribal development during this era of reform.<sup>26</sup> But American Indian students still lag far behind non-Indian students

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<sup>23</sup> Indian Self-Determination and Education Assistance Act of 1974, Pub. L. No. 93-638, 88 STAT. 2003 (codified as amended at 25 U.S.C.).

<sup>24</sup> *Id.* at 2203.

<sup>25</sup> *Id.* at 2204.

<sup>26</sup> See, for example, PUB. L. NO. 93-638, 88 Stat. 2003 and S. REP. 91-501 (1969).

in America.<sup>27</sup> This disaster is compounded by the fact that American Indian students and their families have little control and cohesion in education. Traditionally, educating young tribal members was a family and community affair. But federal legislation effectively erased American Indian parents and family members from the education process.<sup>28</sup>

A 2007 Harvard study found that “[i]ncreases in family involvement in the school predict increases in literacy achievement . . . [and f]amily involvement in school matters most for children at greatest risk.”<sup>29</sup> American Indian youth fit this description perfectly. Through many parents want to be involved, barriers exist on all fronts.<sup>30</sup> The result is a cycle of poor education, poverty, self-medication, splintered families, and impotent tribes.<sup>31</sup> State, federal, and tribal governments all officially recognize the importance of paternal involvement, but the results of their education reform attempts lag behind the recognition they give the problem and its solution.<sup>32</sup>

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<sup>27</sup> See Dawn M. Mackety & Jennifer A. Linder-VanBerschot, *Examining American Indian Perspectives in the Central Region on Parent Involvement in Children's Education*, U.S. DEPT. OF EDUC. 2, <http://files.eric.ed.gov/fulltext/ED502499.pdf> (last visited Feb 10, 2017).

<sup>28</sup> See *infra* PART II.

<sup>29</sup> Eric Dearing, Holly Kreider, Sandra Simpkins, & Heather Weiss, *Family Involvement in School and Low-Income Children's Literacy Performance*, FAM. INVOLVEMENT RES. DIG. (2007), <http://www.hfrp.org/family-involvement/publications-resources/family-involvement-in-school-and-low-income-children-s-literacy-performance> (last visited Mar.16, 2017). “Between kindergarten and fifth grade, high levels of family involvement were most strongly and positively associated with the literacy achievement of children whose families were low-income and whose mothers had very low levels of education. For children with the exceptional risk of having low income and low parent education, there were exceptional achievement rewards associated with high family involvement. Although there was an achievement gap in average literacy performance between children of more and less educated mothers when family involvement levels were low, this gap was nonexistent when family involvement levels were high. . . . Our results support the usefulness of family involvement in schools as a means of improving the achievement of children living in low-income families, especially those who face the additional challenge of low parent education.” See also, e.g., Melissa Ingram, Randi B. Wolfe, & Joyce M. Lieberman, *The Role of Parents in High-Achieving Schools Serving Low-Income, At-Risk Populations*, 39 EDUC. & URBAN SOCIETY 479, 495 (2007) (“With respect to the role of parents in high-achieving schools serving low-income, at-risk populations, this study suggests that investing resources into encouraging effective parenting and learning at home will yield the most significant results.”).

<sup>30</sup> See Mackety & Linder-VanBerschot, *supra* note 27, at 16.

<sup>31</sup> See S. REP. 91-501 at ix–xi [hereafter “KENNEDY REPORT”].

<sup>32</sup> See *infra* PARTS II–IV.

American Indian tribes have survived multiple federal efforts to erase their tribal identity. They stand culturally independent from mainstream American society, if not economically independent. This is commendable; but it also leads to special challenges with regard to American Indian students' education. The tribes' members live in a world where success depends on mainstream American economic and educational knowledge and opportunities. They need to be educated in these fields if they are to benefit themselves, their families, and their tribes.<sup>33</sup> American Indian parents whose educational experience has crippled them economically, socially, and emotionally need to be empowered to help their own children succeed in federal, tribal, state, or private schools. The parents of these children need the familial security and support their cultures once revolved around as they navigate an alien scholastic and career-oriented world. Students need to stay in school, graduate, and find careers and interests that bring dividends to them, their families, and their tribes. Parent involvement, as cited earlier, helps that. Not only helps, but may be central to it where American Indian families are concerned. They have been effectively severed for generations, and they pay a heavy price. Both parents and children need to work together and build better familial bonds, starting the healing process from the grass-root unit of the tribe: the person and the family. Education is a prime opportunity for that healing. The Boarding School system is largely extinct; but its legacy of alienated families, illiterate tribal members, and destructive poverty and self-medication continue today. The American school system—on state, federal, and private levels—needs to bridge communication and cultural gaps with the tribes, and particularly with American Indian parents, to facilitate the kind of parental involvement that will lead to such healing and the termination of

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<sup>33</sup> *Bureau of Indian Education: Doing What's Best for Students*, BUREAU OF INDIAN EDUC., <https://www.bie.edu> (last accessed March 12, 2018) ("BIE's mission is to provide quality education opportunities from early childhood through life in accordance with a tribe's needs for cultural and economic well-being, in keeping with the wide diversity of Indian tribes and Alaska Native villages as distinct cultural and governmental entities.").



the destructive cycles voiced by the Navajo and experienced by many other tribes.

This paper explores issues regarding American Indian education policy, with particular reference to the roles parents play, or should play, in this process. Part II discusses the history of American Indian education policy in the United States. Part III discusses specific examples of bridge-building and the need for improvement on the tribal, state, and federal fronts. Part IV suggests that reforms for each of the fronts.

## I. THE HISTORY OF AMERICAN INDIAN EDUCATION

The process by which American Indian youth became at risk was centuries in the making. The federal government, in an effort to Christianize the tribes and bring them in the Union, set in motion a set of policies that took control from the tribes for their members, including in educating the young.<sup>34</sup> Though reform has occurred since the 20th century and American Indian students are now free of the many coercive education elements their progenitors faced, problems still persist, and one of the main solutions—parental involvement—still languishes as a legislated, though still spottily enforced reform effort.

### *A. Federal Control: 1800s to 1920s*<sup>35</sup>

The era of federal control was an era of bridge-burning rather than bridge-building. Approximately 400 treaties spell out federal obligations with regard to tribal education in return for confiscated land.<sup>36</sup> Although White education of American Indians

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<sup>34</sup> See, e.g., NATIVE AMERICAN RIGHTS FUND, TRIBALIZING INDIAN EDUCATION: FEDERAL INDIAN LAW AND POLICY AFFECTING AMERICAN INDIAN AND ALASKA NATIVE EDUCATION, 22 (2000), <http://www.narf.org/wordpress/wp-content/uploads/2015/01/purple.pdf> [hereinafter TRIBALIZING INDIAN EDUCATION] (tying federal Indian policy to lack of tribal control and high dropout rates for American Indian students).

<sup>35</sup> *Id.* at 19.

<sup>36</sup> See *id.* at 21.

dates back to the 17th-century Puritan praying towns,<sup>37</sup> the law behind the federal government-tribal education relationship dates back originally to treaties, systemized by the Snyder Act in 1921.<sup>38</sup> American takeover of Indian education dates back as early as 1794 treaties that included “education services to tribes” as payment for Indian land.<sup>39</sup> Congress, as the sovereign power in the tribal-U.S. relationship, would provide that education.<sup>40</sup> In the onslaught of white settlement and tribe constriction, tribal leaders saw the writing on the wall and realized that, for their children, education would be necessary to survive in the white man’s world.<sup>41</sup> Statutes would follow to fortify and systematize the treaty provisions.

Before White American interference, tribes generally educated their young “through family, clan, and community systems.”<sup>42</sup> Education was a family affair, and children excelled as

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<sup>37</sup> 2014 NATIVE YOUTH REPORT, 7 (EXECUTIVE OFFICE OF THE PRESIDENT, 2014),

[https://obamawhitehouse.archives.gov/sites/default/files/docs/20141129nativeyouthreport\\_final.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/20141129nativeyouthreport_final.pdf) (last visited 8 Apr. 2017). Under the Puritan system, Native people were removed from their homes to become Christianized and educated.

<sup>38</sup> INDIAN NATIONS AT RISK TASK FORCE, INDIAN NATIONS AT RISK: AN EDUCATIONAL STRATEGY FOR ACTION, xi (U.S. Dept. of Ed., 1991), <https://www2.ed.gov/rschstat/research/pubs/oieresearch/research/natatrisk/report.pdf> (last visited 8 April 2017).

<sup>39</sup> *See id.*

<sup>40</sup> *See id.*

<sup>41</sup> A tribal leader of the Choctaw people stated to treaty officials in 1824, “We feel our ignorance, and we begin to see the benefits of education. We are, therefore, anxious that our rising generation should acquire a knowledge of literature and the arts, and learn to tread in those paths which have conducted your people, by regular generations, to their present summit of wealth & greatness.” *Raymond Cross, American Indian Education: The Terror of History and the Nation’s Debt to the Indian People*, 21 U. ARK. LITTLE ROCK L. REV. 941, 951 (quoting DAVID H. DEJONG, PROMISES OF THE PAST: A HISTORY OF INDIAN EDUCATION 41 (Fulcrum 1993)). Too, Menominee Chief Jossette Carrin stated in 1831, “Father we have heard what you know about educating our children. It is good, the Menominees wish to have their children laugh like the Americans.” *Id.* at 952 (quoting from DAVID H. DEJONG, PROMISES OF THE PAST: A HISTORY OF INDIAN EDUCATION 44 (Fulcrum 1993)).

<sup>42</sup> TRIBALIZING INDIAN EDUCATION, *supra* note 34, at 20. *See also Cross supra* note 41, at 943–44: “Education had historically transmitted an accumulated fund of cultural and social knowledge to the succeeding generations of a community’s members. New community members were empowered by this knowledge to develop their individual talents and skills to their fullest potential. Within American Indian communities this educational responsibility was historically shared by the Indian children’s parents, their clan uncles and aunts, tribal elders, and their age-group peers.”

a measure of familial honor.<sup>43</sup> Accomplishments became communal achievements rather than individual marks of glory.<sup>44</sup> The tribal teaching method, still alive in some American Indian homes, stands in marked contrast to the White American education system:

[The] home learning environment[,] . . . [is] characterized by such factors as freedom of movement, learning through direct experience, and hands-on and activity oriented learning. These learning models emphasize visual, spatial, and kinesthetic orientations. In contrast, in the typical school environment, free movement is significantly restricted, and indirect intellectual learning, which emphasizes verbal, mathematical, and logical orientations, is the norm.<sup>45</sup>

Traditionally American Indian students learned “survival, social and spiritual skills, relations, and values.”<sup>46</sup> They learned this within a tight support group of parents and extended family members; success in these areas brought success to the students’ families and to the tribes. The students did not leave their families to “go to school” every day—rather, they were taught as they interacted with their parents, with the tribal elders—role models they aspired to be like.<sup>47</sup> They operated according to community and family values, not dwelling on individualistic achievement.<sup>48</sup> Parents were among the first and most active teachers of their children.<sup>49</sup>

By contrast, under American education, the emphasis was on “technical and vocational training in agriculture or the industrial

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<sup>43</sup> See LORRAINE HALE, NATIVE AMERICAN EDUCATION: A REFERENCE HANDBOOK 85 (ABC-CLIO 2002).

<sup>44</sup> *Id.* at 86.

<sup>45</sup> *Id.*

<sup>46</sup> TRIBALIZING INDIAN EDUCATION, *supra* note 34, at 20.

<sup>47</sup> See HALE, *supra* note 43, at 85–86.

<sup>48</sup> See *id.* at 85–86.

<sup>49</sup> See *id.* at 34.

arts.”<sup>50</sup> Individualism reigned.<sup>51</sup> Congress appropriated federal boarding schools for Indian children, as well as ordinary schools both on and off reservations, often run by religious groups acting under government contract.<sup>52</sup> Its intent was to replace American Indian parents with “the Christian home of the boarding schools.”<sup>53</sup>

The Boarding School system had its beginnings in 1754, but the Bureau of Indian Affairs (BIA) generalized the practice during the Assimilation Era.<sup>54</sup> The BIA patterned its approach after the Carlisle Indian Boarding School, located in Pennsylvania. Captain R.H. Pratt, famous for his philosophy of “Kill the Indian . . . save the man,” ran that school.<sup>55</sup> It operated as “a deliberate policy of ethnocide and cultural genocide.”<sup>56</sup> Under this system the U.S. government sought to sever tribal relationships from the identities of the young, which would hopefully result in their assimilation to White American culture. Children were to be Christianized, civilized, and prepared for citizenship—and it must happen outside the “corruptive”<sup>57</sup> reach of their parents, families, and tribes.<sup>58</sup> John B. Riley, headmaster at one Indian school, claimed that “[o]nly by complete isolation of the Indian child from his savage antecedents can he be satisfactorily educated.”<sup>59</sup>

The system was ruthless. “Indian parents, tribal elders, and traditional Indian educational precepts were banished from the four

<sup>50</sup> *Id.*

<sup>51</sup> *See id.* at 85–86.

<sup>52</sup> *Id.*

<sup>53</sup> *See id.* at 17.

<sup>54</sup> *See* CASES AND MATERIALS, *supra* note 7, at 257–59. *See also* 2014 NATIVE YOUTH REPORT, *supra* note 37, at 8.

<sup>55</sup> CASES AND MATERIALS, *supra* note 7, at 185. Education became a prime prong of the U.S. Government’s push to assimilate the tribes.

<sup>56</sup> NATIVE AMERICAN RIGHTS FUND, ANNUAL REPORT 2015, 31 (2015), <http://www.narf.org/wordpress/wp-content/uploads/2016/04/NARF2015.pdf> [hereinafter “Annual Report 2015”] (last visited 8 April 2017).

<sup>57</sup> 2014 NATIVE YOUTH REPORT, *supra* note 37, at 8.

<sup>58</sup> *See* HALE, *supra* note 43, at 7–8, 17. Educators argued that “[e]recting boarding schools on the reservation would [result in] the work of the school . . . [being] overwhelmed by the school’s proximity to the tribe and its practices.” *Id.* at 17. *See also* 2014 NATIVE YOUTH REPORT, *supra* note 37, at 8.

<sup>59</sup> 2014 NATIVE YOUTH REPORT, *supra* note 36, at 7.

corners of” BIA schools.<sup>60</sup> The government ordered reservation tribes to relinquish their children. Attendance at these remote, off-reservation<sup>61</sup> boarding schools was compulsory; if Indian families refused to send their children, treaties provided, Congress could withhold rations.<sup>62</sup> Families hid from police who were sent to round up the stragglers.<sup>63</sup> The government could also send Indian youth to White farms to teach them “values of hard work and the benefits of civilization.”<sup>64</sup>

Upon entering the boarding schools, Indian children were attacked on two fronts: physically and mentally. They were punished for speaking their tribal languages and wearing tribal clothing and hair styles, “banned from conducting traditional or cultural practices . . . taught that their culture and traditions were evil and sinful, and that they should be ashamed of being Native American.”<sup>65</sup> The banners of “‘education’ and ‘civilization’ operated as euphemisms and justifications for taking culturally and physically injurious actions against Native children and their peoples.”<sup>66</sup> American Indian children were transported from a learning environment in which parents and family members loved and led them to an environment where strangers—often themselves largely uneducated<sup>67</sup>—supervised, indoctrinated, and often abused them.<sup>68</sup> The BIA kept them for eight years, “during which time they were not permitted to see their parents, relatives or friends.”<sup>69</sup>

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<sup>60</sup> Cross, *supra* note 41, at 944.

<sup>61</sup> ANNUAL REPORT 2015, *supra* note 56, at 31.

<sup>62</sup> TRIBALIZING INDIAN EDUCATION, *supra* note 34, at 20. *See also* 2014 NATIVE YOUTH REPORT, *supra* note 37, at 9.

<sup>63</sup> 2014 NATIVE YOUTH REPORT, *supra* note 37, at 9.

<sup>64</sup> CASES AND MATERIALS, *supra* note 7, at 649.

<sup>65</sup> ANNUAL REPORT 2015, *supra* note 56, at 31. The BIA “forbade the speaking of Indian languages, prohibited the conduct of traditional religious activities, outlawed traditional government, and made Indian people ashamed of who they were. Worst of all, the Bureau of Indian Affairs committed these acts against children entrusted to its boarding schools, brutalizing them emotionally, psychologically, physically, and spiritually.” 2014 NATIVE YOUTH REPORT, *supra* note 37, at 13.

<sup>66</sup> 2014 NATIVE YOUTH REPORT, *supra* note 37, at 8; ANNUAL REPORT 2015, *supra* note 56, at 31.

<sup>67</sup> *See* HALE *supra* note 43, at 15.

<sup>68</sup> *See id.* at 86.

<sup>69</sup> CASES AND MATERIALS, *supra* note 7, at 185: “Anything Indian—dress, language, religious practices, even outlook on life . . . was uncompromisingly prohibited. Ostensibly

The results devastated the children and the tribes. The youth were returned to their tribes “not as the Christianized farmers that the Boarding School Policy envisioned, but as deeply scarred human beings with none of the acculturated skills—community, parenting, extended family, language, cultural practices—gained by those who are raised in their cultural context.”<sup>70</sup> The Boarding School Policy of removal “usurped Indian parenting responsibilities, tore apart tribal kinship networks, and destroyed the fabric of Indian communities,”<sup>71</sup> as they were intended to do. The youth lacked an ability to reconnect with their families and tribes, and yet they had not become white, Christian, individualistic Americans either.<sup>72</sup> They belonged nowhere, alienated from within and discriminated against from without.<sup>73</sup> The Obama Administration credits the BIA’s Boarding School Policy with a haunting “legacy of . . . misdeeds.”<sup>74</sup> “The trauma of shame, fear and anger has passed from one generation to the next, and manifests itself in the rampant alcoholism, drug abuse, and domestic violence that plague Indian country.”<sup>75</sup> Indeed, congressional hearings in preparation for the Indian Child Welfare Act (ICWA) “established that ‘[t]he wholesale separation of Indian children from their families is perhaps the most tragic and destructive aspect of American Indian life today.’”<sup>76</sup> These hearings uncovered “a crisis in the Indian family of sufficient proportion to threaten tribal survival.”<sup>77</sup> Indeed, one of the leading causes for failure in Indian education has been attributed to the removal of

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educated, articulated in English language, wearing store bought clothes, and with their hair short and their emotionalism toned down, the boarding-school graduates were sent out either to make their way in a White world that did not want them, or to return to reservations to which they were now foreign.” (*quoting* Peter Farb, *MAN’S RISE TO CIVILIZATION*, 257–59 (1968)).

<sup>70</sup> ANNUAL REPORT 2015, *supra* note 56, at 31.

<sup>71</sup> 2014 NATIVE YOUTH REPORT, *supra* note 37, at 8.

<sup>72</sup> *Id.* at 10.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 13.

<sup>75</sup> *Id.*

<sup>76</sup> CASES AND MATERIALS, *supra* note 7, at 647–48.

<sup>77</sup> *Id.*

Indian children from their homes and families and placement in white homes and organizations.<sup>78</sup>

*B. Transfer to States: 1920s to 1970s*<sup>79</sup>

This state of affairs continued until 1928, when the Meriam Report<sup>80</sup> was submitted to the Secretary of the Interior. A research report on the condition of the reservation tribes, it criticized the federal Indian education policy.<sup>81</sup> By this time the federal government had begun transferring control, responsibility, and resources for Indian education to the states.<sup>82</sup> Now the BIA responded to the Meriam Report by taking a more hands-off approach, closing 16 boarding schools and opening more than 80 schools on reservations.<sup>83</sup> The 1934 Indian Reorganization Act<sup>84</sup> made available loans to Indians who aspired to vocational training and college education.

That same year Congress passed the Johnson O'Malley Act,<sup>85</sup> which authorized the Secretary of the Interior to contract with states and public schools, or private organizations within the states, "for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory."<sup>86</sup> Congress would fund these endeavors.

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<sup>78</sup> *Id.* at 20. Barbara Ann Atwood summed up in cutting clarity White American responsibility for "the destruction of Indian families and the grim plight of Indian children raised in non-Indian homes"—or, for our purposes, boarding schools: "Testimony before Congress preceding the enactment of ICWA indicated that state child welfare officials were insensitive to traditional Indian approaches to child rearing, in particular the widespread practice of involving members of a child's extended family in significant caregiving. . . . Not only did Indian children suffer the trauma of separation from their homes but, in addition, Indian youths raised in non-Indian settings often encountered difficulty in forming a positive identity later in life, exhibiting serious emotional and psychological problems. . . . Indian families suffered from the loss of their children, and tribes, in turn, lost their membership. Barbara Ann Atwood, *Flashpoints under the Indian Child Welfare Act: Toward a New Understanding of State Court Resistance*, 51 EMORY L.J. 576, 603–05 (2002).

<sup>79</sup> TRIBALIZING INDIAN EDUCATION, *supra* note 34, at 19.

<sup>80</sup> BROOKINGS INSTITUTION, THE PROBLEM OF INDIAN ADMINISTRATION (1928).

<sup>81</sup> *See* TRIBALIZING INDIAN EDUCATION, *supra* note 34, at 21.

<sup>82</sup> *See id.* at 19, 21–22.

<sup>83</sup> *See* 2014 NATIVE YOUTH REPORT, *supra* note 37, at 10–11.

<sup>84</sup> Indian Reorganization Act of 1934, PUB. L. NO. 73-383, 48 STAT. 984.

<sup>85</sup> Johnson O'Malley Act of 1934, 25 U.S.C. §§ 452 et seq.

<sup>86</sup> CASES AND MATERIALS, *supra* note 7, at 21; 25 U.S.C.S. § 5342

Under the Impact Aid Law of 1950,<sup>87</sup> Congress authorized federal compensation to states for “education of children living on tax-free federal lands.”<sup>88</sup> This act provided more of a voice for American Indian parents by making available a complaint system with which these parents could monitor the public schools; however, the public school districts enjoyed great discretion in appropriating these funds from the federal government. Fund misappropriation would lead to legislation reform in the 1970s.<sup>89</sup> Although Congress took steps to lessen its own influence on American Indian education, the goal of Indian education remained the same: to “make the Indian child a better American rather than to equip him simply to be a better Indian.”<sup>90</sup> Indian education remained a one-way transmission rather than a two-way bridge, with native voices unheard.<sup>91</sup> Congress specified that American Indian parents should be encouraged to be more involved in their children’s school education, but state-run schools often did not support parents in these efforts, though the schools still opted for federal funding.<sup>92</sup> The states generally used that funding for overall school needs rather than for developing programs to support Indian students in the transfer from the reservation/boarding school system to the public school system.<sup>93</sup> Indian cultural differences and “unique educational needs”<sup>94</sup>—including the cultural need of American Indian students and parents to work together in education under their tribal learning styles—were ignored by the states as they had been by the BIA. Indeed, “during the termination era, reservation schools, whether they were public, bureau, or

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<sup>87</sup> PUB. L. NO. 81-874, 64 STAT. 1100.

<sup>88</sup> Linda Sue Warner, *Education and the Law: Implications for American Indian/Alaska Native Students*, in NEXT STEPS: RESEARCH AND PRACTICE TO ADVANCE INDIAN EDUCATION 53-83, 67 (ERIC CLEARINGHOUSE ON RURAL 1999).

<sup>89</sup> See Warner, *supra* note 88, at 68.

<sup>90</sup> 2014 NATIVE YOUTH REPORT, *supra* note 37, 11.

<sup>91</sup> CASES AND MATERIALS, *supra* note 7, at 18.

<sup>92</sup> See HALE, *supra* note 43, at 67-68.

<sup>93</sup> See Cross, *supra* note 41, at 961.

<sup>94</sup> *Id.* For instance, Cross observes that “Traditional Indian education emphasized earning by application and imitation, not by memorization of basic information. It also emphasized learning by sharing and cooperation, as compared with an American education that emphasized competition and hardy individualism.” *Id.* at 947.



mission schools, were similar to one another. Typically, they were surrounded by a fence. Parents were not encouraged to come to the schools and teachers did not go to the students' homes."<sup>95</sup>

However, reform continued on the American Indian family front. Congress passed the Elementary and Secondary Education Act<sup>96</sup> in 1965. This Act and its subsequent amendments mandate that the states use the funding allotted to them by the Secretary of the Interior "to meet the unique educational needs of . . . Indian children on reservations served by elementary schools and secondary schools for Indian children."<sup>97</sup> It also provides for family engagement centers through contract between the Secretary of the Interior and the tribes themselves.<sup>98</sup> It further mandates that the states can receive funds from the federal government "only if such agency conducts outreach to all parents and family members and implements programs, activities, and procedures for the involvement of parents and family members in programs assisted under" the Act and that those programs "be planned and implemented with meaningful consultation with parents of participating children."<sup>99</sup> Family literacy programs, family preschools, etc., became requirements under this act.<sup>100</sup> Congress made similar provisions under the Indian Education Act of 1972.<sup>101</sup>

In 1969 the Subcommittee on Indian Education submitted its report *The Education of American Indians*, popularly known as the Kennedy Report.<sup>102</sup> The report showed that "Indian students had disproportionately high illiteracy and drop out rates, and that the public schools largely ignored their needs and culture."<sup>103</sup> For these problems, the Report primarily blamed federal Indian policy,

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<sup>95</sup> HALE, *supra* note 43, at 68.

<sup>96</sup> PUB. L. NO. 89-10, 79 STAT. 27.

<sup>97</sup> PUB. L. NO. 89-10, as reauthorized by PUB. L. NO. 114-95 at 87-88.

<sup>98</sup> *See* PUB. L. NO. 89-10 at 277.

<sup>99</sup> *Id.* at 74.

<sup>100</sup> *See id.*

<sup>101</sup> PUB. L. NO. 92-318, 86 STAT 235.

<sup>102</sup> *See* Senate Committee on Labor and Public Welfare, INDIAN EDUCATION: A NATIONAL TRAGEDY - A NATIONAL CHALLENGE: 1969, <https://files.eric.ed.gov/fulltext/ED034625.pdf> [hereinafter, KENNEDY REPORT].

<sup>103</sup> *Id.* at 22.

which did not allow Indian control or participation in education. Simply put, state public schools were not required—nor did they choose—to involve tribes or Indian parents in education or to offer education beyond the basic non-Indian curriculum.<sup>104</sup> Parent and student involvement in program development was negligible, the researchers found.<sup>105</sup>

Despite a Presidential directive more than 2 years ago, only one of the 226 BIA schools is governed by an elected school board. . . . Parents visit BIA schools only on rare occasions and usually feel unwelcome. Parental visitation is actively discouraged in a number of school. . . . Teachers and administrators of BIA schools rarely visit Indian parents in their homes. In many schools, this is actively discouraged as ‘going native.’ . . . A result of the lack of control over the schools by Indians is that the instruction offered is inconsistent with the desires of the community. The school is alien to the community and the community is alien to the school. . . . Despite a Presidential directive 2 years ago, BIA schools are seldom used as a community resource or even for adult education.<sup>106</sup>

The Kennedy Report also took issue on the fact that American Indian adult education was largely untouched by the BIA, with only 20% of Indian adults at the time having completed high school<sup>107</sup>—evidence of another degenerative cycle spawned by the Boarding School Era. The Kennedy Report included 60 proposed points of reform. It focused on American Indian education issues that were now multi-generational and included in its reform points: (1) the empowerment of American Indian adults whose education had suffered under federal and state regulation; and (2) their involvement in the education of their children so as

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<sup>104</sup> See TRIBALIZING INDIAN EDUCATION, *supra* note 34, at 22.

<sup>105</sup> See KENNEDY REPORT, *supra* note 31, at 92

<sup>106</sup> *Id.* at 102.

<sup>107</sup> See *id.* at 104.

not to propound the problem. The Kennedy Report spelled it out as the following: tribal control of schools; “elimination of adult illiteracy in Indian communities; adult high school equivalency programs for all Indian adults”<sup>108</sup>; and that “Indian parental and community involvement be increased.”<sup>109</sup>

*C. Transfer to Tribes: 1970s to Present*<sup>110</sup>

Congress responded with another slew of legislation authorizing transfer of Indian education—this time to the tribes. Under the Indian Education Act of 1972<sup>111</sup> Congress set aside 10% of Indian school funding to states for the creation of Indian-controlled, or tribal, schools; authorized grants to tribes and private and nonprofit organizations for Indians; provided funding for adult education; and created the Office of Indian Education.<sup>112</sup> Under the Indian Self-Determination and Education Assistance Act of 1975,<sup>113</sup> Congress “authorize[d] tribes [themselves] to contract with the federal government to administer schools for Indian children.”<sup>114</sup> Congress further required that BIA schools redefine local school board responsibilities to give parents more authority in school administration<sup>115</sup> under the Impact Aid Amendments of 1978.<sup>116</sup> Under the Tribally Controlled Community College Assistance Act of 1978<sup>117</sup> and the Tribally Controlled Schools Grants Act of 1988<sup>118</sup> Congress provided funding to tribal institutions of higher education. The Native American Language Act of 1990 stated that the U.S. policy is to work with tribes to protect their cultures and languages.<sup>119</sup> The Department of

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<sup>108</sup> *Id.* at 107.

<sup>109</sup> *Id.* at 119.

<sup>110</sup> TRIBALIZING INDIAN EDUCATION, *supra* note 34, at 19.

<sup>111</sup> PUB. L. NO. 92-318, 86 STAT. 235.

<sup>112</sup> *See* Warner, *supra* note 88, at 18.

<sup>113</sup> 25 U.S.C. §§ 450-450n

<sup>114</sup> *See* Warner, *supra* note 88, at 19.

<sup>115</sup> *See* Warner, *supra* note 88, at 20–21.

<sup>116</sup> PUB. L. NO. 95-561, 92 STAT. 2143.

<sup>117</sup> 25 U.S.C. §§ 1801-1815.

<sup>118</sup> 25 U.S.C. §§ 2501-2511.

<sup>119</sup> 25 U.S.C. §§ 2901-2906. *See* Warner, *supra* note 88, at 22.

Education stated in 1991 that the government should “promote legislation that will require public and Bureau of Indian Affairs schools to include the participation of tribes, Native communities, and parents of Native children in the development, implementation, and evaluation of local, state, and federal [education] plans.”<sup>120</sup> These enactments “provided tribal governments, communities, and families with unprecedented opportunities to influence the direction of their children’s future.”<sup>121</sup>

Legislation on the subject has not stopped. For instance, President Bill Clinton issued Executive Order No. 13096,<sup>122</sup> which reemphasized the federal government’s commitment to improving Indian schooling and called for “a comprehensive Federal response” to “address the fragmentation of government services available to American Indian and Alaska native students and the complexity of intergovernmental relationships affecting the education of those students.”<sup>123</sup>

The results are hopeful; bridges have been constructed. American Indian students, rather than being isolated in federal boarding schools are learning in mainstream and tribal schools. In 2008 the federal budget for American Indian education stood at \$1 billion, one third of its total budget; only 7% of Indian students were registered at BIA schools—public, private, and tribal schools have become the norm; and of 183 BIA schools, tribes operated all but 59—which includes boarding schools and dormitories (dormitories for children who attend state schools located at great distances from reservations).<sup>124</sup> Approximately 10,000 Indian adults participate in BIA-funded adult education programs.<sup>125</sup> In 2014, the Obama administration reported that “tribes operate more

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<sup>120</sup> INDIAN NATIONS AT RISK, *supra* note 38, at 28.

<sup>121</sup> 2014 NATIVE YOUTH REPORT, *supra* note 37, at 12. See also TRIBALIZING INDIAN EDUCATION, *supra* note 34, at 23.

<sup>122</sup> AMERICAN INDIAN AND ALASKA NATIVE EDUCATION, 63 FED. REG. 42, 681 (1998).

<sup>123</sup> TRIBALIZING INDIAN EDUCATION, *supra* note 34, at 24.

<sup>124</sup> CASES AND MATERIALS, *supra* note 7, at 18–19.

<sup>125</sup> For instance, the Vocational and Technical Education Assistance to the States Act, 20 U.S.C.A. §2327. (West 2018). See CASES AND MATERIALS, *supra* note 7, at 19.

than two-thirds of Bureau of Indian Education schools and 37 tribal colleges and universities. More than 200 tribal nations have created their own education departments or agencies and vested them with the authority and responsibility to implement tribal education goals and priorities.”<sup>126</sup>

The present looks better than the past did for American Indian education, although issues still need to be addressed, as the next section explores.

## II. SPECIFIC GLIMPSES

Tribal education reform moves actively on the federal, state, and tribal fronts. Especially with regard to parental involvement in American Indian students’ education, the reforms are encouraging. The Indian Nations at Risk Task Force conducting public hearings in 1991 and found that “parental participation emerged as one of the most important strategies available for improving education for American Indian and Alaska Native students. Successful programs welcome parents as partners, encouraging them to become involved in school in a variety of ways.”<sup>127</sup>

Key to American Indian student success—and a reason parental involvement is so important—is recognizing the cultural divide these students experience, sometimes on a daily basis, when they come to school:

When one considers that the learning style of a Native American student is influenced by an environment and tradition that has little in common with a Western school, it is understandable that the Indian child may feel alienated. Teachers of native students cannot assume that their students will be interested in Western academic subject matter. They must constantly draw connections for their students between academic knowledge and its application to

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<sup>126</sup> 2014 NATIVE YOUTH REPORT, *supra* note 36, at 12.

<sup>127</sup> INDIAN NATIONS AT RISK, *supra* note 38, at 53.

the real world. . . . The discontinuity between home and school environments can be so great that Native American students experience a kind of culture shock that significantly affects their attitudes toward school.<sup>128</sup>

The tribes live in a different America, and survival depends not on solely traditional tribal education and its structure but on successful completion of Western education requirement; the students are American citizens, and their tribes still exercise only quasi-sovereign powers in a larger political and economic system that would benefit them to understand and be a part of. But tribal students come from a different culture, and Western education is strange and alien—and the students suffer because of it. Educational success—and thus success in personal, family, and societal life—depends on effective bridge-building between the two cultures so students can relate and learn foreign subjects in supportive and more comfortable and relatable environments.

Progress in this recognition and application of reform is visible on each front; but each area still has shortcomings that make it impossible to bridge these cultural divides. These areas need to be addressed in empowering American Indian parents, bringing them back into their children's education experience, and sparing the next generation of American Indian students the bitter fruits of dropout-status, joblessness, alcoholism, drug addition, feeble parenting skills—or complete separation from their children because of their own substance abuse—and suicide.

### *A. The Tribal Front*

#### *1. Native American Rights Fund (NARF)*

The Native American Rights Fund (NARF) was founded in 1970 as the “national legal defense fund” for native peoples in the

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<sup>128</sup> HALE, *supra* note 43, at 89.

United States.<sup>129</sup> It acts as a means to reform laws that affect American Indians and Native Alaskans, including education laws—at both the state and federal levels.<sup>130</sup> NARF works to “emphasiz[e] the legal rights of tribes to govern the formal education of tribal members in all types of schools—federal, state, and tribal.”<sup>131</sup> NARF believes greater self-determination in tribal education will enable success among American Indian students but points out that tribes have too often been refused “decision-making and accountability” roles that would bring this about.<sup>132</sup>

NARF states as its goals for Tribalizing Indian Education the following:

1. To promote sovereign tribal rights and responsibilities in education, including the government-to-government interactions of tribal governments with the federal and state governments;
2. To increase the number of tribal governments that assess their education situation, develop education goals, and exercise sovereign rights through developing and implementing tribal education laws, tribal education standards, and tribal education plans;
3. To increase the number of tribal governments that take more education responsibility, control, and accountability;
4. To assist the federal and state governments in increasing their government-to-government education work with tribal governments and in

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<sup>129</sup> NATIVE AMERICAN RIGHTS FUND, COMPILATION OF STATE INDIAN EDUCATION LAWS, 1 (2005), <http://www.narf.org/wordpress/wp-content/uploads/2015/01/blue.pdf> (last visited 8 April 2017) [hereinafter “COMPILATION”].

<sup>130</sup> *See id.*

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

monitoring that increase within their federal and state agencies and federal and state funded education programs; and,

5. To assist tribes in reforming federal and state Indian education laws and policies and in passing new laws and adopting new policies which enable tribal decision-making, ensure access to resources, and enhance other improvements in Indian education.<sup>133</sup>

NARF notes that the influence of “Indian education programs, Indian parent committees, Indian school boards, and tribally-controlled colleges” has helped some of this reform take place.<sup>134</sup>

NARF started the Tribal Education Departments National Assembly (TEDNA) in 2003 and represents the assembly, among other clients.<sup>135</sup> TEDNA works to secure funding that will enable tribes to interact with public schools in the State Tribal Education Partnerships program and with the BIA in the Sovereignty in Education Program.<sup>136</sup> TEDNA tries to advance reforms that would open up opportunities to tribes, including American Indian parents, to influence “what American Indian and Alaska Native students are taught, how they are taught, who teaches them, and where they learn.”<sup>137</sup>

One of NARF and TEDNA’s notable accomplishments involves the Every Student Succeeds Act of 2015.<sup>138</sup> This bill includes

suggestions from TEDNA and our education partners on the formula grant funds that typically go to Local Education Agencies. . . . [G]rants may be

<sup>133</sup> *Id.* at 3.

<sup>134</sup> COMPILATION, *supra* note 129, at 1.

<sup>135</sup> Annual Report 2015, *supra* note 56, at 32.

<sup>136</sup> *Id.* at 4.

<sup>137</sup> *Id.* at 32. “Tribal control of these core issues can amount to educational tribal sovereignty.”

<sup>138</sup> Every Student Succeeds Act of 2015, PUB.L. NO. 114-95, 129 STAT. 1802.



given to a Tribe or Tribal Education Agency for a variety of broad goals to support self-determination in education. Grants may now be used to promote self-determination in education; improve the academic achievement of Indian children and youth; and promote the coordination and collaboration of tribal educational agencies with state educational agencies and local educational agencies to meet the unique educational and culturally related academic needs of Indian students.<sup>139</sup>

This opens up more opportunities for American Indian parental involvement.

## 2. *Tribal control of education*

Tribes themselves have turned to self-initiated education to help their tribes survive. Many tribes can't afford state-of-the-art facilities, even with government financial aid; other tribes with more resources manage quite well on their own. The common theme is a return to tribal values, to tribal teachers, and the empowerment of students and their families—parents or extended families—through education.

For example, in 1978, the Crow Tribe applied for a federal grant under the newly enacted Tribally Controlled Community College Act, to build a college.<sup>140</sup> In 1988 it founded Little Big Horn College in an attempt to give its then-6,000 tribal members a chance for higher education—the closest college was 120 miles away.<sup>141</sup> “The Crows have an almost mystical bond to family, community, and their land,” and this college was an attempt to “education Crows in their ancient culture and in survival skills for the modern world.”<sup>142</sup> The building poorly accommodated the programs, but the tribe made do, teaching mainly in Crow and

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<sup>139</sup> Annual Report 2015, *supra* note 56, at 32–33.

<sup>140</sup> Bill Shaw, *Crow College: A Beleaguered Montana Tribe Turns to Education to Help its Members Themselves*, LIFE, Aug. 1988, at 64.

<sup>141</sup> *See id.* at 67.

<sup>142</sup> *Id.*

offering associate degrees.<sup>143</sup> This tribally controlled college, taught by tribal members, brought “self-respect and confidence” back to students who had come out of white secondary education thinking they were stupid.<sup>144</sup> Parents, in particular, whose previous educational experience was generally negative, sacrificed in order to attend the school and educate themselves:

    Their average age is 29, and most juggle classes and homework with children and part-time jobs. Many live with parents so they can pay the tuition . . . . Few students can afford cars, and some hitchhike as many as 75 miles each day to get to class. . . . Regina lives with her parents in the hills outside the town of Lodge Grass. After getting up at six a.m. to feed her son, Colby, she hitchhikes 30 miles to LBHC, where she majors in data processing. ‘I’d never seen a computer until I came here last year,’ says Regina, a B students who dreams of being an accountant for her tribe. After school she does homework in the gym until her ride leaves, arriving home at nine p.m. She kisses her sleeping son good night, then studies another hour before collapsing into bed. ‘Sometimes I’m so tired I can’t go on,’ says Regina, ‘but my son says, ‘Mom, you have to go to school,’ so I get up.’”<sup>145</sup>

This college empowered parents to break out of a multigenerational cycle of poverty and helplessness spawned by the original federal education system and educate themselves to become employed and take care of their own children.

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<sup>143</sup> *Id.* at 67–68.

<sup>144</sup> *Id.* at 68.

<sup>145</sup> *Id.*

For example, the college's first president, Janine Windy Boy, was herself a divorced mother of two.<sup>146</sup> Having educated herself, she empowered others through her work. Then-Crow Tribal Chairman Richard Real Bird said of the college, "We're finally doing something to prepare our children to guard our future."<sup>147</sup> But in the process the school also empowered parents to help their tribes and to provide better futures for their children. The tribe, in charge of its own educational structure, created a bridge between mainstream White American education and career prowess and traditional tribal emphasis on culture and family education.

It is not easy, on a reservation, however, to empower parents and educate children, even with tribal control. For instance, some tribes, like the Pine Ridge Reservation Sioux tribe, have so few resources they still rely almost totally on the federal government for program funding.<sup>148</sup> In such an environment, tribal members do not often view education as rewarding because once the students earn degrees there are simply no jobs to be had on the reservation.<sup>149</sup> Pine Ridge High School only graduated 45% of its students during the 2009 to 2010 school year.<sup>150</sup> Here joblessness leads to drunken parents and surrogate parentage by other family members or tribal members.<sup>151</sup> One woman, Ms. Tobacco, raises three nephews and a niece because their parents are either dead or inebriated and unable to take care of their own children.<sup>152</sup> Her own mother did not advance beyond the 7th grade but did work at Red Cloud Indian School, a Jesuit school on the reservation—where Ms. Tobacco graduated before attending college.<sup>153</sup> She has two jobs, at Oglala Lakota College and South Dakota High School

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<sup>146</sup> See *id.* at 64.

<sup>147</sup> *Id.* at 69.

<sup>148</sup> Leslie A. Maxwell, *Education in Indian Country: Running in Place*, EDUCATION WEEK, (Dec. 4, 2013), <http://www.edweek.org/ew/projects/2013/native-american-education/running-in-place.html#morongo-story>.

<sup>149</sup> See *id.*

<sup>150</sup> See *id.*

<sup>151</sup> See *id.*

<sup>152</sup> See *id.*

<sup>153</sup> See *id.*

Association, and is better enabled to take care of her children.<sup>154</sup> “We were really poor when we were growing up,”<sup>155</sup> Ms. Tobacco says. But she says her mother “was always reading Louis L’Amour books and magazines. She was sober. She just gave us a really stable environment that a lot of families didn’t have.”<sup>156</sup> The mark of a parent’s own education and her involvement and example in the life of her daughter shows the destructive cycle broken in Ms. Tobacco’s life. Ms. Tobacco, herself empowered through education, now seeks to involve herself in her nephews’ and nieces’ education, to instigate a new multigenerational cycle—one of prosperity, sobriety, and stability.

Without adequate resources, however, that cycle may happen only one isolated case at a time. Tribal schools like Loneman, on the Oglala reservation, may wait for decades for refurbishment, improvement, and asbestos removal—which also stymies American Indian students’ chances to do well.<sup>157</sup> However, education by American Indians, in American Indian languages, about American Indian cultures, seems to help students stay and succeed in school. “It always comes down to a caring adult, the relevancy of their learning, and engagement,”<sup>158</sup> said Denise Juneau, state superintendent of schools in Montana. Parents and extended family members could be those caring adults if they themselves were empowered through education and government and tribal help.

At the Pine Ridge Reservation, students excel at the privately owned Red Cloud Indian School. In 2012 it gradated 81% of its senior class on time, and 88% of those students enrolled in higher education.<sup>159</sup> The school helps fund students through full-ride scholarships, and its graduates enroll at prestigious universities like Stanford and Creighton.<sup>160</sup> Itself one of the assimilation boarding schools originally, the school made a

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<sup>154</sup> *See id.*

<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> *See id.*

<sup>158</sup> *Id.*

<sup>159</sup> *See id.*

<sup>160</sup> *See id.*

turnaround in the 1970s, teaching Lakota language and hiring American Indian administrators.<sup>161</sup> “The school, working closely with specialists in Native languages at Indian University, [and] has developed the nation’s first comprehensive K-12 Lakota-language curriculum.”<sup>162</sup> Red Cloud recognizes the importance of familial involvement in its students’ changes for successful graduation: “[W]e do look for signs of a family support structure” for admitting students, said former superintendent Robert Brave Heart Sr., “because if the parents aren’t interested in a college—preparatory education or aren’t interested in the Catholic and Lakota spiritual formation in what we do here, students are going to struggle to succeed here.”<sup>163</sup> The school, free of government funding and, thus, government regulation, is a coveted education option on the reservation—a tribe then can assert its own sovereignty in education because it doesn’t depend on the federal government.<sup>164</sup>

The Morongo Band of Mission Indians in California also thrives on its own education initiatives. The tribe lives in the San Bernardino Mountains and owns a casino and hotel that brings in \$3 billion per year.<sup>165</sup> The tribe has used this resource to open the Morongo School.<sup>166</sup> The school has 140 students, pre-K through 9th grade; but class sizes are small, and the teachers have aides so they can better help the students.<sup>167</sup> Tuition is free and is, as with Red Cloud, free of government red tape.<sup>168</sup> In the spirit of traditional tribal education, tribal elders come in twice a week to teach the students the Cahuilla and Serrano languages, through tradition “bird songs,” an important part of the Morongo tribe’s culture.<sup>169</sup> “We’d known for years that the public schools weren’t equipped to teach most of our children, because our kids were

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<sup>161</sup> *See id.*

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> *See id.*

<sup>165</sup> *See id.*

<sup>166</sup> *See id.*

<sup>167</sup> *See id.*

<sup>168</sup> *See id.*

<sup>169</sup> *See id.*

failing,” said Morongo tribal chairman Robert Martin.<sup>170</sup> “We wanted to take control of how to educate our young people,” in order to build their self-esteem and their chance for success.<sup>171</sup>

The Morongo tribe recognizes the importance of empowering its young students and its adults through education. Part of the tribe’s requirement for its per capita payments to each family in the tribe is that “members who turn 18 . . . earn a high school diploma or a GED credential before they can receive their payments.”<sup>172</sup> Prior to the Morongo School’s founding, the tribe hired tutors to go into the Banning school district and act as liaisons “between reservation families and the local schools”; this resulted in an increase of graduation rates for tribal children.<sup>173</sup> Thanks to the school, “61 percent of students were performing at grade level in math; 51 percent were doing so in reading,” whereas half those rates had achieved the same competency five years earlier.<sup>174</sup>

Family and tribal education of American Indian students took place even more recently, as teachers rallied to educate children whose parents camped at Standing Rock to protest the Dakota Access Pipeline. In true original tribal fashion, Oceti Sakowin School “combine[d] conventional classes with real-world experience for a unique educational opportunity.”<sup>175</sup> Students made documentaries about their camp experience, recorded stories told by tribal elders, and studied math, science, Lakota culture and the language, and Lakota traditions such as building tipis, dances, drum-making, etc.<sup>176</sup> The school bridged White American mainstream and tribal education, and the students sang its praises.<sup>177</sup> The school made a point to “help[] parents work on

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<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> Mary Annette Pember, *Standing Ground on NoDAPL: Oceti Sakowin School Educates*, NEXT GENERATION INDIAN COUNTRY MEDIA NETWORK (Oct. 19, 2016), <https://indiancountrymedianetwork.com/education/native-education/standing-ground-on-nodapl-oceti-sakowin-school-educates-next-generation/>.

<sup>176</sup> *See id.*

<sup>177</sup> *See id.*

completing home-school paperwork” so the school would be legitimate, and the “parents and students [were] very engaged with the home schooling curriculum offered by teachers at the school.”<sup>178</sup> The North Dakota Public Instruction Department argued that the school violated North Dakota homeschool law, since the parents were not the primary educators, offering to bus students to public schools around the area; but Oceti Sakowin School remained and even gave rise to other protest camp schools.<sup>179</sup> Education became a family affair for these students, as it had been before Manifest Destiny. The students learned mainstream American subjects that will qualify them to advance in education or careers, and they learned with the help of their strongest supporters—their parents and other tribal members.

A more structured and exemplary tribal school system, the Rosebud Sioux Tribe’s system is credited as among the first “comprehensive [tribal] education code.”<sup>180</sup> The code’s four main points of emphasis include “[t]ribal parental involvement programs.”<sup>181</sup> The school cooperates with public and BIE education departments, hoping through this collaboration to “assist parents, tribal communities, educators, and administrators to recognize the characteristics and benefits of high-quality education programs and services.”<sup>182</sup> The tribe recognizes that many of its teenage students already have children and that “parenting and family life education has been identified as a primary need on the reservation to encourage positive, effective parenting skills, as well as effective parental involvement in the schools.”<sup>183</sup> The Rosebud education code seeks to provide “effective, appropriate . . . and relevant” education to its reservation inhabitants, which includes academic competence in non-Indian subjects as well as tribal history, and development of students as healthy individuals,

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<sup>178</sup> *Id.*

<sup>179</sup> *See id.*

<sup>180</sup> Cross, *supra* note 41, at 973.

<sup>181</sup> *Id.*

<sup>182</sup> ROSEBUD SIOUX TRIBE EDUCATION DEPARTMENT, EDUCATION CODE, 2, <http://www.rst-education-department.com/education-code/> (last visited Mar 15, 2017). [Hereinafter ROSEBUD]

<sup>183</sup> *Id.* at 3.

*members of families and communities, parents, citizens of the Tribe, the state and the United States of America; development of self-discipline and positive self-worth; development of respect for all other living beings; development of attitude which encourages lifetime learning, decision-making, and undertaking of responsibilities in family life, community and tribal affairs, employment, recreation, and the use of the environment; and parental and community involvement in the formal education process whereby the educational aspirations and the cultural values of parents and community members are promoted and respected.*<sup>184</sup>

Family involvement in education, the tribe believes, fosters successful individuals, successful families, and a successful tribe. This tribe, like the other tribes examined, makes both parental education and parental involvement key in its school structure. Part of the curriculum includes health and emphasis of reservation problems like “the effect of alcohol, nicotine or tobacco, and drugs on individual, family, community, and tribal life, culture, and development.”<sup>185</sup> It mandates “parenting and family life” classes starting in 7th grade and continuing throughout, educating students about “cultural practices of the Tribe; specific problems regarding parenting and family life on the Reservation; and the need for the parental and community involvement policies and programs provided for by this Code”<sup>186</sup>—an education kept from generations of American Indians by pre-reform government education regulations. The Rosebud Education Code goes so far as to state that its provisions regarding parental involvement “apply to all parents and community members, including those students who are parents. The need for parental and community involvement in local schools and other educational institutions shall be included in the tribal curriculum containing instruction on parenting and family life.”<sup>187</sup>

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<sup>184</sup> *Id.* at 4 (emphasis added).

<sup>185</sup> *Id.* at 22.

<sup>186</sup> *Id.* at 23.

<sup>187</sup> ROSEBUD, *supra* note 182, at 30.



In 1999 Rosebud Sioux Education department became the first tribal education department to certify the teachers that teach on the reservation—both BIA and public teachers. The education code involves the tribes in the BIA and public-school sphere, and this helps more parents get involved in their children's education.<sup>188</sup>

These examples show the positive direction of reform; the tribes are free to integrate their traditional education practices with mainstream American education practices. "Native parents have always been highly committed to the education of their children," and in tribal school systems they have the freedom to help teach.<sup>189</sup>

The tribal education scene is not without trouble, however. Tribal colleges have recently come under attack because they produce "abysmal success rates."<sup>190</sup> Only 20% of students graduate within six years.<sup>191</sup> The colleges maintain that "the many shortcomings students face before college even begins, including poor preparation in primary and secondary schools" is at least partly to blame for these statistics.<sup>192</sup> Insufficient funding also undermines tribal college goals, as well as the fact that the educated can't find jobs on many reservations because of undeveloped economies and infrastructure.<sup>193</sup>

## *B. The Federal Front*

### *1. Family and Child Education Department (FACE)*

The Family and Child Education Department (FACE) was created in 1990 (under the Bureau of Indian Education) to address the "achievement gaps for American Indian children primarily located on rural reservations, and in better preparing them for

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<sup>188</sup> Florence Williams, *Homegrown Leaders: Lakota Educators Bridge Two Worlds*, HIGH COUNTRY NEWS (June 21, 1999), <http://www.hcn.org/issues/157/5091>.

<sup>189</sup> HALE, *supra* note 43, at 34.

<sup>190</sup> Sarah Butrymowicz, *The Failure of Tribal Schools*, THE ATLANTIC (Nov. 26, 2014), <https://www.theatlantic.com/education/archive/2014/11/the-failure-of-tribal-schools/383211/>.

<sup>191</sup> *See id.*

<sup>192</sup> *Id.*

<sup>193</sup> *See id.*

school.”<sup>194</sup> Its strategy centers around parental education and involvement. The program serves 61 BIE schools in both home-based and center/school-based settings.<sup>195</sup> It focuses on children prenatal-5 years old and offers not only education for children but also educational opportunities for their parents or guardians.<sup>196</sup> Its goals, as introduced by its title, seek to help American Indian children and their parents improve their family relationships and their chances at academic excellence:

The goals of the FACE program are:

- To support parents/primary caregivers in their role as their child’s first and most influential teacher;
- To increase family literacy;
- To strengthen family-school-community connections<sup>197</sup>;
- To promote the early identification and services to children with special needs;
- To increase parent participation in their child’s learning;
- To support and celebrate the unique cultural and linguistic diversity of each American Indian community served by the program; and

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<sup>194</sup> *FACE (Family and Child Education)*, BUREAU OF INDIAN EDUC., <https://www.bie.edu/Programs/FACE/index.htm> (last visited Mar 9, 2017).

<sup>195</sup> *Id.*; Vicki Yarnell, Theodora Lambson & Judy Pfannestiel, *BIE Family and Child Education Program: 2014 Report*, 1 (May 2015), <https://www.bie.edu/cs/groups/xbie/documents/document/idc1-030934.pdf>. [Hereinafter, Yarnell]. In home-based programs FACE employees visit families in their homes; in center-based programs the children and parents come to the BIE schools for instruction. *Id.* at 2.

<sup>196</sup> See Yarnell, *supra* note 195, at 1.

<sup>197</sup> FACE achieves this by working with other schools: “FACE staff members participate in regular school staff activities, such as professional development and meetings. They work with classroom teachers, support teachers, and the library staff to augment FACE participants’ experiences and to facilitate children’s transition to the elementary school. They work with other support staffs to better serve those FACE children and their families needing special assistance.” *Id.* at 94.

- To promote lifelong learning.<sup>198</sup>

In so doing it seeks to grant American Indian children “quality education opportunities from early childhood through life”<sup>199</sup> according to the tribes’ specific needs and circumstances. It also seeks to promote “active learning and parental involvement” for those enrolled in its programs.<sup>200</sup>

FACE enables families to build positive memories together while pursuing education. For example, one FACE parent shared, “When my daughter, who is now 12, was asked about her favorite memory of school, she said it was at naptime when my mom would come into the classroom and read me a story.”<sup>201</sup>

FACE partners with the BIA, Parents as Teachers National Center (PAAT), and the National Center for Families Learning (NCFL) to offer these educational opportunities to American Indian children and their parents.<sup>202</sup>

*a. Focus on active parenting and empowering parents.*

FACE “builds on family strengths, rather than pointing out deficits.”<sup>203</sup> The parents who enroll in FACE often have had negative experiences with their own schooling; but they are involved parents and want to help to become more involved and create greater academic opportunities for their children.<sup>204</sup> FACE takes a unique approach to American Indian education in stating that “[t]he parents are the first teachers. Our role is to strengthen

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<sup>198</sup> *FACE*, *supra* note 194.

<sup>199</sup> Yarnell, *supra* note 195, at 1.

<sup>200</sup> *Id.* Sixty-five percent of FACE sites operate in Arizona and New Mexico, the other 35% in the Dakotas, Michigan, Minnesota, Mississippi, Utah, Washington, and Wisconsin. *Id.* at 2.

<sup>201</sup> EXAMINING EDUCATION PROGRAMS BENEFITTING NATIVE AMERICAN CHILDREN: HEARING BEFORE THE SUBCOMMITTEE ON EARLY CHILDHOOD, YOUTH AND FAMILIES OF THE COMMITTEE ON EDUCATION AND THE WORKFORCE HOUSE OF REPRESENTATIVES ONE HUNDRED SIXTH CONGRESS FIRST SESSION, EXAMINING EDUCATION PROGRAMS BENEFITTING NATIVE AMERICAN CHILDREN, 7 (Jul. 20, 1999),

<sup>202</sup> Yarnell, *supra* note 195, at 2.

<sup>203</sup> HEARING, *supra* note 201, at 6. “This is a factor in family involvement and helps develop a partnership with the school that continues when the children enter the Kindergarten-12 System.” *Id.*

<sup>204</sup> *See Id.*

and support them as their child's teachers."<sup>205</sup> The FACE base in Hannahville, Michigan, does this by providing childcare services at the school it is based at; parents can obtain release time for their children and participate in FACE time with them, whether at the FACE center or in their own homes.<sup>206</sup>

The families who come to FACE have different challenges. About 50% of the children reside with both parents. Of those parents, approximately 75% have high school diplomas; 14% of mothers and 7% of fathers are attending school; 30% of mothers and 46% of fathers are in the workforce, 565 of the families use public assistance; 75% of the parents are unemployed; 45% of the adults receive government assistance.<sup>207</sup>

Empowering parents in both their family context and in the greater economic world is one of FACE's prime goals.<sup>208</sup> To this end FACE uses the "Parents as Teachers" curriculum to organize learning experiences that "support children's development and interests, that engage parents in developmentally appropriate interactions with their children, and that promote the family's well-being."<sup>209</sup> For home-based programs, this means including members of the tribe to provide the visits and educate the families, as well as using programs that cater to the tribe's culture and language.<sup>210</sup> For center-based programs this includes instruction in "adult education, early childhood education, Parents and Children Together Time (PACT Time),<sup>211</sup> and Parent Time"<sup>212</sup> four times a

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<sup>205</sup> *Id.*

<sup>206</sup> *See id.* at 6.

<sup>207</sup> *See* Yarnell, *supra* note 195, at 23–24.

<sup>208</sup> The primary goal for home-based service providers (parent educators) is to provide the information, support, and encouragement parents need to help their children develop optimally during critical early years of life." Yarnell, *supra* note 195, at 2.

<sup>209</sup> *Id.* at 3.

<sup>210</sup> *See id.* American Indians make up 95% of the FACE parent educator workforce.

<sup>211</sup> PACT Time involves "parent-child interaction each day which includes bringing parents and children together to work, play, read, and learn. Interactions take place in the classroom and can lead to positive language, literacy, emotional, and cognitive development of children." *Id.* at 4.

<sup>212</sup> "Parent Time gives parents the opportunity each day to address critical family issues in a supportive environment and to obtain information about various presenting issues. *Id.* at 4.

week.<sup>213</sup> Through these services FACE seeks to achieve the following:

- Interactive literacy activities between parents and their children
- Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children
- Parent literacy training that leads to economic self-sufficiency
- An age-appropriate education to prepare children for success in school and life experience.<sup>214</sup>

FACE programs seek to help parents and children interact in school or education settings. For example, one worker reported that “[w]e sent ‘homework’ for families to do together to be more healthy. . . . We encouraged families to participate in the school powwows. . . . Home-based took their end-of-the-year field trip to Evans Plunge, where families swam together.”<sup>215</sup> Parent educators also provided families with Let’s Move goal sheets so they could keep track of their fitness for a year.<sup>216</sup>

FACE recognizes the importance of parent involvement in child education—children whose parents are involved in their education achieve literacy success, and at-risk children are the most in need of parental help.<sup>217</sup> Those parents who enroll their children with FACE typically are involved and want help to become better involved: 80% help their children several times a

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<sup>213</sup> See *id.* at 3.

<sup>214</sup> *Id.*

<sup>215</sup> Yarnell, *supra* note 195, at 42.

<sup>216</sup> See *id.* at 43–44.

<sup>217</sup> See *id.* at 90 (citing Eric Dearing, Holly Kreider, Sandra Simpkins, & Heather Weiss, *Family Involvement in School and Low-income Children’s Literacy Performance*, FAMILY INVOLVEMENT RESEARCH DIGESTS (2007)). “FACE is unique in providing services from pre-natal through third grade. Waiting until a child is in kindergarten to start working on parental involvement may be too late.” HEARING, *supra* note 201, at 7.

week with school; 97% interact with their children's teachers; 95% of these parents visit their children's classrooms at least once per year, and almost 50% do so often during the year; almost half of them volunteer at their children's schools; almost 50% of parents volunteer to help school classes instructionally; 25% are involved in their children's school boards.<sup>218</sup>

FACE seeks to encourage the following in its adult enrollees:

- Supporting parents/primary caregivers in their role as their child's first and most influential teacher,
- Increasing parent participation in their child's learning and expectations for academic achievement, and
- Promoting lifelong learning.<sup>219</sup>

To this end, FACE parent educators encourage parents to make and keep goals "in their roles as parent/family member, worker, and citizen community member."<sup>220</sup> Interestingly, most adults set personal goals.<sup>221</sup> They are most interested in seeing an improvement in their family relationships with their children from their program participation.<sup>222</sup> Almost 90% of the adults in these programs set a goal in 2014, and almost 75% of them kept that goal.<sup>223</sup> Another statistic proves again how strongly these American Indian parents feel about their roles as teachers to their children: 97% of these adults say they read sometimes or frequently to their children—a higher percentage, still, than non-American Indians in the same economic conditions.<sup>224</sup>

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<sup>218</sup> See Yarnell, *supra* note 195, at 91–93.

<sup>219</sup> *Id.* at 73.

<sup>220</sup> *Id.* Such goals include fitness, education, and parent-quality goals.

<sup>221</sup> See *id.*

<sup>222</sup> See *id.* at 75.

<sup>223</sup> See *id.* at 73.

<sup>224</sup> See *id.* at 86.

FACE indeed empowers parents through education and helps to break the downward cycle so many American Indian families find themselves in. For instance, FACE reported the story of one man, “a recovering alcoholic,” who went through the FACE program and found a job as “a counselor . . . at a halfway house.”<sup>225</sup> Parents overwhelmingly praise FACE programs for their effectiveness in empowering them as involved parents and as advocates for their children in public schools:

Almost 85% of parents indicate that FACE helps them *a lot* to increase the amount of time they spend with their child and to become more involved in their child’s education. Eighty-two percent of parents indicate that FACE helps them *a lot* to more effectively interact with their child. . . . Almost three-fourths of parents report that FACE helps them *a lot* to increase their ability to speak up for their child. . . . Almost 95% of adults report that their FACE participation helped them feel better about themselves. Most adults (92%) report that they are more self-directed and self-disciplined as a result of participating in FACE.<sup>226</sup>

Indeed, FACE helps its parents “gain confidence as a parent and as a person, due to the support and success they achieve.”<sup>227</sup>

Aside from helping parents becoming active participants in their children’s education—both personally and at their children’s schools—FACE also helps parents continue their education and find gainful employment to support their families. More than thirty percent of adults enrolled in a center-based FACE program with their child reported progress in GED or high school diploma pursuits; since 1990, 1,400 FACE adults have achieved these goals.<sup>228</sup> Thirty percent report that FACE helped them get jobs or find better jobs.<sup>229</sup>

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<sup>225</sup> HEARING, *supra* note 201, at 7.

<sup>226</sup> Yarnell, *supra* note 195, at 76, 88. FACE parents also cite improved health and fitness and ability to speak their native languages as a result of enrolling with FACE. *Id.* at 90.

<sup>227</sup> HEARING, *supra* note 201, at 7.

<sup>228</sup> See Yarnell, *supra* note 195, at 80.

<sup>229</sup> See Yarnell, *supra* note 195, at 88.

FACE reported the following from one parent:

I received my GED finally after 12 years of putting it off. I tried in the past, but having children and trying to raise a family, it seemed impossible to get old and go back to school. I thought, wow, I could take the kids to school with me while they go to preschool themselves. It was well-worth getting up in the morning with something to look forward to everyday. After completing my GED, I moved on to a Teacher Aid position at the school, which made me feel honored, and like my full life was worthwhile again.”<sup>230</sup>

FACE seeks to achieve these familial goals through partnerships with community facilities and organizations—“social, health, housing, and law enforcement services”<sup>231</sup>—giving American Indian parents and students an array of options for improving their standard of living, their career options, and their health.

*b. FACing challenges.*

Despite these success stories, FACE is plagued with challenges, mostly due to inadequate government funding. In 2014 FACE served 43 schools, with 2,115 children and 2,218 adults enrolled.<sup>232</sup> But although more than 100 families are on waiting lists for FACE enrollment, no new schools were opened that year; indeed, 18 programs have closed due to lack of support at the ground level.<sup>233</sup> Too, 11% of the sites closed their adult education

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<sup>230</sup> HEARING, *supra* note 201, at 7.

<sup>231</sup> Yarnell, *supra* note 195, at 104. “The FACE program addresses these goals through coordination with community partners who provide services for FACE families and through integration of culture and native language in program series. In addition to program reports, participating adults also provide evidence that participation in FACE supports these goals through their own community involvement.” *Id.*

<sup>232</sup> *See id.* at 1.

<sup>233</sup> *See id.* at 1, 12, 36.



services at tribal college or other colleges, although FACE achieved a 9% increase in access to BIA education services for adults in 2014.<sup>234</sup>

The lack of program support reveals different challenges per program. On the home-based level, 72% of the programs reported challenges that made functioning ineffective or impossible. These challenges include lack of resources to train new parent educators sufficiently, and significant turnover of parent educators; technical difficulties that made it hard for home-based visitors to coordinate with their bases and with other sites; technical difficulties that stymied training attempts for parent educators; complicated record-keeping software; lack of time to record data on the students and their parents; insufficient Internet access; lack of transportation for parent educators in getting to homes or for families in getting to the schools; outdated curriculums; understaffed parent educators and the resultant challenges when a center needs a substitute and the substitute has a home-based visit schedule; insufficient space for family interaction; lack of specific instructions to help parent educators do their job; and “low morale due to the unknown future of FACE.”<sup>235</sup>

Center-based programs cited challenges as well, both similar and different to home-based challenges. They, too, cited insufficient training resources. But they also cited protracted background checks that potential enrollees didn’t want to wait for; an intimidating application process for American Indian parents; lack of child care for the parents’ other children; conflicting schedules with adults; and economic hardship. Teachers also said it is difficult to incorporate Common Core standards into lesson plans while at the same time promoting Indian culture and languages; budget cuts; understaffed positions; insufficient webinar training; lack of organization among the program officials; not enough space for instruction; confusion about whether the program needs to comply with the National Association for the Education of Young children in order to be accredited; insufficient

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<sup>234</sup> See *id.* at 104.

<sup>235</sup> Yarnell, *supra* note 195, at 47–50.

administration, equipment, and IT support; and low morale because FACE's future is uncertain.<sup>236</sup>

The American Indian adults likewise cite challenges within the program: lack of space in the teaching sites; insufficient Internet; a need for hands-on workshops; a need for training in how to interact with special-needs children; a desire for exercise classes; a desire for more hands-on activities; and a need for transportation to their children's schools.<sup>237</sup>

## 2. *Other BIE attempts for reform*

A 2013 effort by the Secretaries of Interior and Education involved a Bureau of Indian Education Study Group's Blueprint for Reform. The BIA visited schools, met with leaders and educators on the state and tribal levels, with parents and stakeholders, and saw firsthand the BIA and public failures in American Indian education: "high rates of unemployment, lack of technology, aging school structures, difficulties in attracting and retaining teachers, inadequate socio-emotional support networks, and an out-of-sync curriculum—not tailored to tribal needs of the 21st century learning."<sup>238</sup> It noted that the Miccosukee Indian School became recently the first BIA-funded tribal school to secure a government waiver that allows the tribe to "set its own definition . . . for guiding and measuring students' academic progress instead of being bound by the state-adopted standards and assessments specified by the 2001 No Child Left Behind Act."<sup>239</sup> Such accountability and opportunity for waivers could help solve issues American Indian education faces on the federal front.

## 3. *Executive Support*

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<sup>236</sup> *Id.* at 50–51.

<sup>237</sup> *See* Yarnell, *supra* note 195, at 91.

<sup>238</sup> A BLUEPRINT FOR REFORM: THE REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT, 3 (U.S. DEPT. OF ED. 2010), <https://www2.ed.gov/policy/elsec/leg/blueprint/blueprint.pdf> (last visited on 10 Apr. 2017) [hereafter "Blueprint"].

<sup>239</sup> *Id.* at 12.

The Obama Administration recognized the importance American Indian youth play in “defining the future of this country, and also in leading Native cultures, traditions, and governments into the next century.”<sup>240</sup> The administration cited tribal involvement as necessary for American Indian education success, which would in turn lead to their success in their Native governments.<sup>241</sup> It also acknowledged that without more economic and political support “the path forward is uncertain.”<sup>242</sup>

To this end the Obama Administration listed several recommendations in its 2014 report, including more tribal control,<sup>243</sup> more state cooperation,<sup>244</sup> better preschools for American Indians, “comprehensive, community-based student supports,”<sup>245</sup> more effective use of American Indian culture and language in schools, better teachers, better technology access, more effective suicide prevention programs, and more health assistance among American Indian students.<sup>246</sup>

### *C. The State Front*

The federal government, with its responsibility over the tribes, has noted the importance of cooperation “between tribes and state schools, tribal approval of state education plans, and tribal education codes, plans, and standards” in behalf of American Indian students.<sup>247</sup> It recognizes the importance of state roles in The No Child Left Behind Act of 2001.<sup>248</sup> The Act emphasizes the

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<sup>240</sup> 2014 NATIVE YOUTH REPORT, *supra* note 37, at 4.

<sup>241</sup> 2014 NATIVE YOUTH REPORT, *supra* note 37, at 4–5.

<sup>242</sup> *Id.* at 5.

<sup>243</sup> For instance, the BIE’s 2014 Blueprint for Reform is a “plan to transition the control of BIE schools from the DOI to the tribes.” The “State Tribal Education Partnership grant program is designed to strengthen tribal education agencies. . . . and improve partnerships between tribes, states, and school districts so they can work together more effectively to meet the academic, cultural, and social needs of Native students.” *Id.* at 29.

<sup>244</sup> “Support states in authorizing tribal charter schools as part of public school systems.” *Id.*

<sup>245</sup> *Id.* at 30.

<sup>246</sup> *Id.* at 28–36.

<sup>247</sup> COMPILATION, *supra* note 129, at 1.

<sup>248</sup> 107 P.L. 110, 115 STAT. 1425.

importance of parental involvement for at-risk children's academic performance and includes requirements for states with regard to involving parents in their children's education.<sup>249</sup> Such involvement for American Indian parents, as stated in this Act, includes that they be encouraged to "attend[] parent-teacher conferences, volunteer[] at school, encourage[] other parents to become involved, learn[] about the challenges and resources of their child's school, and communicat[e] with school board members, principals, and other state and local school leaders."<sup>250</sup>

Some states recognize the need for American Indian parent involvement. For example, the California Department of Education has created regulations in light of the Every Student Succeeds Act, which "reauthorize[d] the Elementary and Secondary Education Act of 1965 to ensure that every child achieves."<sup>251</sup> The Act emphasizes the importance of education as a family effort for American Indians and provides for, among other accommodations for American Indian students, "early childhood and family programs that emphasize school readiness,"<sup>252</sup> "integrat[ing] educational services combined with other programs that meet the needs of American Indian students and their families,"<sup>253</sup> and "family literacy services."<sup>254</sup> California, in light of this legislation, has founded Indian education centers "as educational resources to the Indian students, their parents, and the public schools in their communities" and urges school staff to use these centers to interact with American Indians in their districts, including but not limited to organizing "activities that recognize and support the unique culture and educational needs of Indian children and incorporate appropriately qualified tribal elders and seniors," "parent education activities to help deal with challenges faced by family members," and "adult education and other programs to support the family."<sup>255</sup>

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<sup>249</sup> *Id.*

<sup>250</sup> Mackety, *supra* note 27, at 2.

<sup>251</sup> 114 P.L. 95, 129 STAT. 1802.

<sup>252</sup> *Programs & Services - American Indian*, C.A. DEPT. OF ED., <http://www.cde.ca.gov/sp/ai/ps/> (last visited Mar 10, 2017).

<sup>253</sup> *Id.*

<sup>254</sup> *Id.*

<sup>255</sup> *Id.*

California's education plan states that American Indian "parents . . . should be involved in all stages of a school-wide program."<sup>256</sup> It assures that "involving . . . American Indian parents will ensure that the needs of the participants are addressed."<sup>257</sup> It mandates that schools give regular student progress reports to American Indian parents.<sup>258</sup> It also gives American Indian parents a voice in school fund expenditure. These parents act as committees that approve or disapprove the use of Indian education funds in public school districts.<sup>259</sup>

School districts in Albuquerque, New Mexico, involve American Indian parents by publishing and circulating among the parents a Parent Resource Book, with information on subjects including school contact information, transportation, childcare, travel and food services and legal resources. It authorizes release of students' information to pueblo school districts and has published steps for building effective Indian parent committees.<sup>260</sup>

Saint Paul Public Schools in Minnesota boast several parent committees in cooperation with federal statutes: a Title VII Parent Advisory Committee,<sup>261</sup> a Johnson O'Malley Governing Parent Committee,<sup>262</sup> and parent committees pursuant to the Indian Education Act of 1988,<sup>263</sup> among other subprograms. The American Indian Education Program also provides Early Childhood Parent Groups, JOM (Johnson O'Malley) Parental

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<sup>256</sup> *Id.*

<sup>257</sup> *Id.*

<sup>258</sup> *Id.*

<sup>259</sup> *Id.*

<sup>260</sup> See *Parents*, ALBUQUERQUE PUBLIC SCHOOLS, <http://www.aps.edu/indian-education/parents> (last visited Mar 10, 2017).

<sup>261</sup> See *About*, AMERICAN INDIAN EDUCATION PROGRAM, ST. PAUL PUBLIC SCHOOLS, <http://www.spps.org/Domain/10514> (last visited Mar 11, 2017). Concerning Title VII grants.

<sup>262</sup> See *id.* Concerning Title VII grants. Parent committees approve funding for students who qualify under the Johnson O'Malley Act.

<sup>263</sup> See *id.* Concerning Title VII grants. "This legislation requires school districts with 10 or more American Indian students to establish a parent committee of members with children eligible to be enrolled in American Indian Education programs. This committee prepares recommendations regarding the Indian Education Program and the educational needs of American Indian students. Presently, the Title IIV and JOM Parent Committees develop these recommendations."

Assistance, and an American Indian Magnet School that serves American Indians in grades K-8.<sup>264</sup>

Indeed, the Saint Paul Public Schools system evidences a heightened level of encouragement from the school districts and, thus, involvement by American Indian parents. In January 2017 the members of an American Indian parent advisory committee voiced their opinion about St. Paul schools' education shortcomings and passed a nonconcurrency resolution.<sup>265</sup> "Minnesota requires American Indian parent committees to vote once a year either to concur with the district's offerings or not."<sup>266</sup> The parents made three recommendations to the school district along with the nonconcurrency resolution:

- [The district should e]nsure that all American Indian families know about and have access to American Indian Magnet. Only about 26 percent of the school district's American Indians in grades K-8 attend the school.
- Continue funding Check and Connect, which promotes school engagement by assigning students an adult mentor. The federal grant paying for St. Paul's program expires in summer 2018.
- Make greater use of data to target services to individual American Indian students.<sup>267</sup>

Only half of the American Indian student contingency graduates from high school in this district, and American Indian students here score poorly on math and reading tests.<sup>268</sup> Another reason the parents voted for non-concurrency involves the spending of \$275,000 in state funding, which is supposed to go to

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<sup>264</sup> See *id.*

<sup>265</sup> See Josh Verges, *American Indian Parents Want New Approach for Educating St. Paul Students*, PIONEER PRESS, January 16, 2017, <http://www.twincities.com/2017/01/16/american-indian-parents-want-new-approach-for-educating-st-paul-students/> (last visited Mar 11, 2017).

<sup>266</sup> *Id.*

<sup>267</sup> *Id.*

<sup>268</sup> See *id.*

American Indian students but which, instead, the school district uses to “buffer its overall budget.”<sup>269</sup> The school board had 60 days from the submission of the nonconcurrency resolution to answer the parent committee.<sup>270</sup>

Not all school districts afford this level of control and support to American Indian parents, however. Indeed, the states have a history of justifying neglect of their responsibilities for American Indian education by citing the “special political relationship between tribes and the federal government.”<sup>271</sup>

The Utah State Board of Education’s Indian Education department states that “[r]educing the gap in achievement between non-Indian and American Indian students is a priority for all, educators, parents and students,”<sup>272</sup> that “[i]t is important that they be invited to participate in a meaningful manner in the school environment,”<sup>273</sup> and that “American Indian parents and educators want to be sure that promises that were made through treaties are kept,”<sup>274</sup> particularly in education.

However, the board reports that by and large American Indian parents in Utah “feel isolated from the school culture and unwelcome to participate.”<sup>275</sup> These parents have often experienced trauma from their own school experiences and are reluctant to participate, or don’t know how because of their lack of experience with a public school, rather than a BIA school system.<sup>276</sup> Howard Rainer, reservation liaison for Brigham Young University, voiced his concerns about American Indian parent involvement in Utah’s public schools:

All they need is an invitation. They feel left out, isolated, unwelcome in schools. If

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<sup>269</sup> *Id.*

<sup>270</sup> *See id.*

<sup>271</sup> INDIAN NATIONS AT RISK, *supra* note 38, at xi.

<sup>272</sup> *Indian Education*, UTAH STATE BOARD OF EDUCATION, <http://www.uen.org/indianed/teacherresources/forum.shtml> (last visited Mar. 10, 2017).

<sup>273</sup> *Id.*

<sup>274</sup> *Id.*

<sup>275</sup> *Id.*

<sup>276</sup> *See id.*

teachers would make the effort to involve them in research, in a fun project, an activity where the parents had their input with regard to American Indians, or Native Americans, there would be a real interest for parents to come in. American Indian parents want their children to succeed, but they just don't know how. Many of them had disasters in their own educational experience, and so there's a reluctant to enter a school. . . . An invitation, encouragement, and validation of the Native heritage, I think, would go a long way.<sup>277</sup>

Involving parents in such positive presentations about Native culture would go far to help American Indian students find pride in their heritage and help parents feel more comfortable at the schools.<sup>278</sup> Indeed, schools where Indian students make up a quarter or more of the student body complain about not enough involvement from these parents—it's one of the administrations' three main concerns.<sup>279</sup> The board states that “[a]ll parents should be shown how the school works, how students can learn and what families can do to help student success.”<sup>280</sup> This emphasis on helping parents navigate and feel welcome in the public school system is voiced in states outside of Utah, as well.<sup>281</sup> John Tippeconnic, a professor of American Indian Studies at Arizona State University, states that “[i]t is imperative that schools take the

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<sup>277</sup> *Id.* (transcribed from a Broadband segment under “Parental Involvement” on the forum page).

<sup>278</sup> *See id.*

<sup>279</sup> *See* Mackety, *supra* note 27, at iii (citing Catherine Freeman & Mary Ann Fox, *Status and Trends in the Education of American Indians and Alaska Natives*, (NATIONAL CENTER FOR EDUCATION STATISTICS—U.S. DEPARTMENT OF EDUCATION 2005) <https://nces.ed.gov/pubs2005/2005108.pdf> (last visited 10 Apr. 2017)).

<sup>280</sup> *Id.*

<sup>281</sup> *See* John W. Tippeconnic, AMERICAN INDIAN/ALASKA NATIVE FAMILIES: CURRENT STATUS AND IMPLICATIONS FOR STUDENT ACHIEVEMENT, AMERICAN INDIAN STUDIES (ARIZONA STATE UNIVERSITY), [https://www.ets.org/s/sponsored\\_events/achievement\\_gap/pdf/american\\_indians\\_and\\_alaska\\_native\\_families.pdf](https://www.ets.org/s/sponsored_events/achievement_gap/pdf/american_indians_and_alaska_native_families.pdf) (last visited Mar. 17, 2017).



leadership in involving [American Indian] parents in meaningful ways.”<sup>282</sup>

In the spirit of “narrow[ing] the achievement gap for American Indian Students, *Issues and Answers*, a research project by the United States Board of Education, published a 2008 report citing American Indian parents’ perspective on their desire and ability to be involved in their children’s education.<sup>283</sup> The organization gathered five focus groups, comprising 47 American Indian parents or guardians, from one state “in the Central Region,” to better understand why they themselves considered parent involvement, examples of public school cooperation, and examples of the opposite.<sup>284</sup>

Explored topics included inhibitors of parent involvement in public schools. American Indian parents cited racism, logistical difficulties such as transportation and scheduling conflicts, financial difficulties, their own negative experiences with schooling, and school teachers’ and administrators’ attitudes as inhibitors.<sup>285</sup> The “history of . . . coercive assimilation” in American Indian education still holds today in the experiences of American Indian parents, whose own education was negative and who perceive cultural, communicative and value-laden differences between their own culture and the culture of their children’s schools.<sup>286</sup> The American school culture has historically excluded parents and even punished them for trying to keep their children from white assimilative education policies; today the role of parent involvement in education is recognized, and these parents of at-risk youth, especially, have new expectations but neither training nor

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<sup>282</sup> *Id.*

<sup>283</sup> See Mackety, *supra* note 27, “Issues and Answers is an ongoing series of reports from short-term Fast Response projects conducted by the regional educational laboratories on current education issues of importance at local, state, and regional levels. Fast Response project topics change to reflect new issues, as identified through lab outreach and requests for assistance from policymakers and educators at state and local levels and from communities, businesses, parents, families, and youth. All Issues & Answers reports meet Institute of Education Sciences standards for scientifically valid research.” *Id.* at iii.

<sup>284</sup> *Id.*

<sup>285</sup> See Mackety, *supra* note 27, at iii.

<sup>286</sup> *Id.* at 28.

historical example.<sup>287</sup> Their own education varied in experience and achievement.<sup>288</sup>

Perception of their own inadequacies or of hostilities from others stymies American Indian parents' attempts to be involved in their children's public education. They may be afraid of messing up their child's education or of looking stupid when trying to communicate with school workers.<sup>289</sup> One mother said when she went to a parent night she received glares, interruptions, and "lack of effort to be cordial" by other non-American Indian parents.<sup>290</sup> Parents who went to boarding school themselves have never seen the public school structure and don't know what their responsibilities are as far as parent-teacher conferences, etc.<sup>291</sup> Their children themselves are subjected to discrimination in the schools, they said, and this also lessens desire by parents to be involved with the school system.<sup>292</sup> For example, parents perceive that the schools "will identify an American Indian child's exhibition of anger as a behavior problem that needs treatment, rather than recognizing it as a reaction to racial slurs from classmates."<sup>293</sup> Communication from the schools is spotty too, as some of these parents don't have transportation, for themselves or their children, and some lack access to computers.<sup>294</sup>

The parents discussed factors that made them more likely to participate in their children's educations as they try to navigate their own cultural divide between their own school experience and their children's school systems. Communication made it to the top of the list: helpful, caring, timely communication by teachers to parents about their children's progress; guidance to parents to help their children do better; positive feedback about their children's successes; and more personal, rather than general, invitations to

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<sup>287</sup> See *id.* at 1.

<sup>288</sup> See *id.* at 3.

<sup>289</sup> See *id.* at 9.

<sup>290</sup> *Id.*

<sup>291</sup> See *id.*

<sup>292</sup> See Mackety, *supra* note 27, at 10.

<sup>293</sup> See *id.* at 11.

<sup>294</sup> See *id.* at 14.

participate.<sup>295</sup> The parents noted that in Indian culture extended family work just as closely with American Indian students as do their parents—bringing up the young is a community effort—and suggested that schools implement programs in which American Indian students “have access to someone they can feel close to, such as Big Brothers or Big Sisters type of relationship . . . [or even] an American Indian grandparent program, with someone who could visit classrooms, tell stories, and connect with American Indian children.”<sup>296</sup>

Parents felt that both they and their children needed liaisons and/or walk-in information centers to navigate the school system.<sup>297</sup> They said they would be more likely to attend informal school activities for families—which would enable the parents to acquaint themselves with other parents and school staff—than they would to attend formal events like parent-teacher conferences.<sup>298</sup> They cited instances in which a school or a parent had initiated an American Indian club and invited other American Indians to come participate, or when parents had been invited to come present on their cultures for classes.<sup>299</sup> They suggested after-school programs that emphasized American Indian culture for these students and that were open to not only the students but to their families.<sup>300</sup> They also suggested centers where American Indians could go for homework help.<sup>301</sup> They noted that they felt more comfortable in the school system when teachers were aware of their lack of knowledge of the school system and worked side by side with them to help their children make progress.<sup>302</sup> Parents wanted to see more American Indian teachers and staff at these schools, to help both them and their children feel more comfortable; and in the

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<sup>295</sup> See Mackety, *supra* note 27, at 13, 16.

<sup>296</sup> Mackety, *supra* note 27, at 7, 14, 16.

<sup>297</sup> See *id.* at 14, 16.

<sup>298</sup> See *id.* at 15.

<sup>299</sup> See *id.* at 5, 8.

<sup>300</sup> See *id.* at 15.

<sup>301</sup> See *id.*

<sup>302</sup> See *id.* at 13–15. The parents gave examples like “grandparents day, carnivals, dances, family nights, bake sales, book fairs, and rummage sales,” and even community suppers. *Id.* at 15.

event that didn't happen, for "educators to be more aware of and able to interact in ways that promote the development of closer interpersonal relationships with parents, working collaboratively to support the academic achievement of their students."<sup>303</sup> Along with the comfort factor, the parents voiced the desire to "provide more [culturally appropriate] input in how their children are educated and in the content of the curriculum. . . ."<sup>304</sup> American Indian parents understand the culture from which they send their children to school; but often they feel powerless to voice this knowledge in a school system that is under Congressional mandate to bridge achievement between American Indian students and non-Indian peers but that operates without taking these parents into consideration.

### III. RECOMMENDATIONS

In 1991 the Indian Nations at Risk Task Force submitted a report to the U.S Department of Education in which it highlighted areas of progress and areas of concern in American Indian education.<sup>305</sup> The Task Force credited American Indian students' academic issues as partly due to the fact that their parents do not have the opportunity "to develop a real sense of participation."<sup>306</sup> Indeed, the Task Force included as one of its projected goals "to guide the improvement of all federal, tribal, private, and public schools" in which American Indian students are enrolled the following: "By the year 2000 every school responsible for educating Native students will provide opportunities for Native parents and tribal leaders to help plan and evaluate the governance, operation, and performance" of these schools' curriculum and their own students' achievement.<sup>307</sup>

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<sup>303</sup> *Id.* at 11, 16.

<sup>304</sup> *Id.* at 16.

<sup>305</sup> See INDIAN NATIONS AT RISK, *supra* note 38.

<sup>306</sup> *Id.* at 8. Parents, as well as members of the students' tribal communities, "must become involved in their children's education, in partnership with school officials and educators. They must participate in setting high expectations for students, influencing the curriculum, monitoring student progress, and evaluating programs." *Id.* at xiv.

<sup>307</sup> *Id.* at i.

Parental involvement was the first topic the Task Force discussed with regard to recommendations:

- Learning begins with parents and other family members in the home and significantly influences youngsters' academic futures.
- All parents can significantly influence youngsters' attitudes about schooling and academic performance. . . .
- Positive experiences by young children are important building blocks for future activity and the development of their attitudes about life.<sup>308</sup>

Native students are particularly sensitive to their “understanding of their culture and role in society,” and their social and academic prowess follows; this, “[r]esponsibility for the education of Native students must rest in the hands of the parents and communities served by schools,”<sup>309</sup> those people who are closest to the students, to their culture, and to their hearts.

The Task Force's strategies and recommendations have not been further pursued,<sup>310</sup> despite the fact that state, federal, and tribal school departments recognize a need for reform. The Rosebud Sioux Tribe Education Department states a commitment to “work with state and federal governments to improve education . . . [through] cooperative working relationships.”<sup>311</sup> The Obama Administration declared that only “broader support” will continue to help struggling Indian students—the kind of support provided by all branches of education, whether public, federal, tribal, or private.<sup>312</sup> “All have roles” in this enterprise.<sup>313</sup> Educators support a “holistic approach to education,” which would include

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<sup>308</sup> *Id.* at 14.

<sup>309</sup> *Id.* at 20.

<sup>310</sup> See Mackety, *supra* note 27, at 2.

<sup>311</sup> ROSEBUD, *supra* note 182, at 5.

<sup>312</sup> 2014 NATIVE YOUTH REPORT, *supra* note 37, at 6.

<sup>313</sup> *Id.*

“full service schooling, or integrated schooling, and community schools.”<sup>314</sup>

American Indian parents want to be involved in their children’s education. The parents from the *Issues and Answers* study testified to trying to be involved in their children’s schooling both at the schools and at home—through communicating with teachers about the students, attending the student events, volunteering to help in class, helping with their homework, reading with their children, and involving extended family when they themselves couldn’t be involved.<sup>315</sup> They want to involve themselves to build their children’s academic and emotional achievement, to help when their children have problems, and to respond when the school offer welcoming invitations to do so.<sup>316</sup> One of these parents started her own group at one of the schools and made Indian crafts with her child and fellow students.<sup>317</sup> Another parent saw that her daughter was behind in reading, so she “made her read to me. . . . Just about every night too. I’ve been buying her chapter books, and she loves reading.”<sup>318</sup> The parents want to advocate for their children within the school system—one parent “tried to attend every IEP meeting for her younger son to make a case for not placing him on medication for attention deficit hyperactivity disorder.”<sup>319</sup> They need support to do so effectively.

The Kennedy Report called for not only “legislative and executive support” to improve American Indian education but “dedicated and imaginative management” by federal, state, and local decision-makers in this effort and that “Indian parental and community involvement be increased.”<sup>320</sup> Sometimes will come in part from these departments exercising such dedication and imagination on their own and in part from them building relationships with each other. In order to bridge achievement gaps between American Indian and non-Indian students, governments,

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<sup>314</sup> Tippeconnic, *supra* note 269.

<sup>315</sup> See Mackety, *supra* note 27, at iv.

<sup>316</sup> See *id.* at iv–v.

<sup>317</sup> See *id.* at 5.

<sup>318</sup> *Id.* at 7.

<sup>319</sup> *Id.* at 8.

<sup>320</sup> KENNEDY REPORT, *supra* note 31, at xiv.

school systems, and tribes need to bridge their own cultural and communication gaps and empower, educate, and enable parents to become more involved. American Indian students need a bridge between their traditional tribal education structures and mainstream American education structures in order to best learn career skills, social and economic skills, family skills, and personal wellbeing skills. Regarding such bridge-building, the following recommendations apply to each branch in the equation:

The Tribal Front

- Public and BIE schools are not the only other answers for the tribe. The tribes should seek out private funding for their own schools as well, working with nonprofits, private schools, and private agencies to secure funding. This funding will free the tribes from much state and federal regulation and enable them to create curriculums in which American Indian students' parents and community members can be more involved in the school system.
- Tribes should seek out funding for, and create a process in which American Indian parents who wish to may take courses to receive their own teacher certifications from the tribes and the states. This will not only empower parents with education and with marketable skills for within or without the reservation, but it will also enable them to more effectively teach their children at home, during the formative years or beyond. Tribes should incentivize private homeschooling groups, from which children can be taught by their parents and can learn tribal culture and identity as well as Western curriculums.<sup>321</sup>

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<sup>321</sup> See, for example, the Learning Together Homeschool Group based in Massachusetts. Learning Together, LEARNING TOGETHER HOMESCHOOL GROUP, <http://www.learningtogetherness.org/index.html> (last visited 17 Mar. 2017).

- Those tribes that can offer payouts to their members should, like the Morongo tribe, make payouts conditional upon a high school degree or its equivalent.
- Tribes should seek nonprofits and private companies who are willing to open locations on reservations in order to offer employment—and thus incentive to graduate from school and stay on the reservations—to their members.

#### The Federal Front

- An argument could be made that the tribes may be better off if the federal government would disinvolve itself entirely from the education process; however, we do not want a repeat of the Termination Era chaos. Due to treaty rights and tribal reliance on federal funding, the government needs to stay involved, at least economically.
- The federal government's role has transitioned to one mainly of economic support. That support needs to be greater, to BIE schools, to public schools, and to tribal schools themselves. BIE facilities languish because of poor funding; many tribal schools, dependent on federal funding, fare no better; and public schools don't have enough accountability in how they use the funds they are given for American Indian students.<sup>322</sup>
- With regard to public schools, the federal government should require an accounting every school year by each school that uses federal funds for American Indians. If these accountings reveal that public schools are bolstering only general expenses with this money, the federal government should withhold that funding, should impose sanctions on that school district and should provide

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<sup>322</sup> See *infra* Parts II–III.



a process for the district to access the funding again, using it this time for its proper purpose.

- This economic involvement should include more financial support to programs like FACE, with incentives to tribal, public, and private education departments to start similar programs to benefit American Indian students and their parents.
- The federal government should make waivers like that given the Miccosukee Indian School more available to tribal schools, allowing them funding but without the governmental education regulation—this will allow tribes to set their own curricula and standards, providing not only Western education but a healthy sense of tribal culture and values for their students.

The State Front

- Public school administrators and instructors should receive training on how to communicate more effectively with American Indian parents and guardians.<sup>323</sup>
  - Schools should be sensitive to the economic status of the American Indian families in their districts and should distribute both print and online communication to reach parents who have computers and those who don't.
  - Schools should be sensitive to the cultural divide between American Indian students and their peers, and American Indian parents and their peers, and provide positive feedback to both the students and their parents, along with feedback for improvement.

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<sup>323</sup> See Mackety, *supra* note 27, at 1–2.

- Public schools should require courses in American Indian cultures and values as part of their teacher certification processes.
- Public schools should provide more family activities, clubs, and curriculum offerings where American Indian parents and community members can attend, meet staff and other parents, and especially can present and teach about American Indian culture, history, and values.
- Public schools should consider appointing liaisons to help American Indian parents connect with and navigate the school system in behalf of their children.
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#### IV.CONCLUSION

The Kennedy Report, instrumental in bringing about the Self-Determination Era, asked questions that still haunt American Indian Education policy today:

What are the consequences of our education failure? What happens to an Indian child who is forced to abandon his own price and future and confront a society in which he has been offered neither a place nor a hope? Our failure to provide an effective education for the American Indian has condemned him to a life of poverty and despair. . . . [Consider] the poignancy of children who want to learn but are not taught; of adults who try to read but have no one to teach them; of families which want to stay together but are forced apart; or of 9-year-old children who want neighborhood schools but are sent thousands of miles away to remote and alien boarding schools.<sup>324</sup>

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<sup>324</sup> KENNEDY REPORT, *supra* note 31, at ix–xi.

The Navajo nation's account of youth suicide is the result of such a system. And there is not the only account. Broken families, and thus broken students, broken economies, and broken morals, are the result of such a system. "But it need not always be so. Creative, imaginative, and above all, relevant educational experiences can blot the stain on our national conscience."<sup>325</sup> "Native American parents [hold] their children as sacred gifts" and want to unify with Western school systems in ensuring their safety and success.<sup>326</sup> These parents provide the most relevant education experience to American Indian students who experience academic, emotional, and cultural divides in a mainstream Western education system. Empowering them and incentivizing them to be more involved in their children's education will empower the students, empower the families, present and future, and empower the tribes. The need to "Talk in Darkness" will subside as the plight of the American Indian improves through these recommended reforms and better bridge-building policies.

*\*Cassidy Wadsworth Skousen*

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<sup>325</sup> KENNEDY REPORT, *supra* note 31, at xi–xii.

<sup>326</sup> HALE, *supra* note 43, at 68.

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